

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

3 UNITED STATES OF AMERICA,)
4)
4 Plaintiff,) Judge Wells
5) Cleveland, Ohio
5 vs.)
6) Criminal Action
6 JAMES A. TRAFICANT, JR.,) Number 4:01CR207
7)
7 Defendant.)

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9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE
10 THE HONORABLE LESLEY WELLS
11 JUDGE OF SAID COURT,
12 ON THURSDAY, MARCH 28, 2002

12 Jury Trial
13 Volume 28
14 - - - - -

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17 APPEARANCES:
17 For the Government: CRAIG S. MORFORD,
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21 For the Defendant: Pro Se
22 Official Court Reporter: George J. Staiduhar, RPR, FCRR
23 U.S. District Court - Room 539
24 201 Superior Avenue
24 Cleveland, Ohio 44114-1201
25 (216) 241-5622
25 Proceedings recorded by mechanical stenography; transcript
 produced by computer-aided transcription.

1 MORNING SESSION, THURSDAY, MARCH 28, 2001 9:20 A.M.

2 THE COURT: Thank you. Be seated, please.

3 Good morning.

4 MR. MORFORD: Good morning, Your Honor.

5 MR. SMITH: Good morning.

6 THE COURT: We have still the issue before
7 the jury comes out of the objection that was posed to
8 questioning of the last witness, your staff member, and I
9 think she was going to come back. They had no
10 cross-examination, or I don't know if it was recross.

11 MR. MORFORD: There was no cross-examination,
12 period.

13 THE COURT: But there was a question that was
14 put to her, there was an objection posed, and this is your
15 opportunity to show us whether or not it falls outside of
16 hearsay.

17 MR. TRAFICANT: It was unsolicited. It was
18 made at a time when the individual was under no stress and
19 no obligation to have made such statement and had responded
20 in the fashion that was, in fact, made in conjunction with
21 a request or a conversation relative to her returning to
22 work and some of the allegations she read. It was a
23 spontaneous reaction.

24 THE COURT: By -- I just want to be clear,
25 by Ms. Kovachik here on the stand.

1 MR. TRAFICANT: To Ms. Kovachik, yes, on the
2 stand.

3 THE COURT: I am trying to figure out what
4 you are saying.

5 MR. TRAFICANT: Ms. Kovachik made the
6 statement Mr. O'Nesti told her she made no kickbacks.

7 THE COURT: She started to say -- at that
8 point there was an objection.

9 MR. TRAFICANT: She did say that. She said
10 Mr. O'Nesti said he made no kickbacks to Jim Traficant.
11 That's what I understood what was said.

12 THE COURT: We went over it yesterday, and I
13 will go over it again. "Did there come a time when you
14 rejoined the Congressional staff?". That was your
15 question. And her answer was, "Yes. I rejoined the staff
16 after talking to Chuck O'Nesti, and with his encouragement
17 to say" -- and now the hearsay part -- "Linda, go back to
18 the Congressman's office. I know you are a good worker and
19 the Congress needs you."

20 That's an area of hearsay. Then she says, "I said"
21 -- she is talking about herself at that point -- "I said I
22 don't know about these kickbacks, Mr. O'Nesti."

23 "He says" -- now she is talking about hearsay again,
24 "I had not" -- and there was an objection posed. That's
25 the issue that we told you we would address if you want to

1 address it, and we told her to come back so we could do it.

2 MR. TRAFICANT: She is here to be voir dired.

3 THE COURT: All right. So we will do that.

4 MR. TRAFICANT: He said he had not.

5 THE COURT: That's what you say, but that's
6 not what the transcript is, and she may come in and say
7 that. I don't know what she is going to say.

8 MR. TRAFICANT: We will voir dire her later.
9 I do have witnesses here and expecting others, however you
10 want to handle it.

11 I understand you ruled on the tapes. I was told by
12 the press outside you ruled on tapes. Is that a fact?

13 THE COURT: I think we issued rulings
14 yesterday or the day before. Did we issue rulings? We have
15 so many motions in this case --

16 MR. TRAFICANT: Did I receive a ruling on the
17 tapes?

18 THE COURT: You get all my rulings.

19 MR. TRAFICANT: Who handed it to me?

20 THE CLERK: After the Judge announced it I
21 walked up and handed it to you.

22 MR. TRAFICANT: When did you hand it to the
23 prosecutor?

24 THE CLERK: The second after I handed it to
25 you.

1 MR. TRAFICANT: When did you hand it to me?

2 THE CLERK: Right after the Judge --

3 THE COURT: In any event, it is docketed.

4 MR. TRAFICANT: Mr. DiBlasio is taking the
5 Fifth Amendment. He is not available.

6 THE COURT: We have been through this,
7 Congressman.

8 MR. TRAFICANT: His tapes should be
9 admissible.

10 THE COURT: We have been through that, and --

11 MR. TRAFICANT: And you are not going to
12 admit the DiBlasio tape.

13 THE COURT: Whatever is in that order is the
14 order I made in the case. You should read the docket and
15 the order in the case. They affect you. If you were
16 surprised by it when you went out and talked to the press,
17 I'm sorry.

18 MR. TRAFICANT: I didn't talk to them. They
19 notified me. "What are you going to do now the tapes are
20 thrown out?"

21 THE COURT: We will tell you when it was
22 docketed.

23 MR. TRAFICANT: When was it filed?

24 THE COURT: When was what filed?

25 MR. TRAFICANT: What was the date of the

1 motion? Show me the date of the motion.

2 THE COURT: Hold on. Just relax. We will
3 get a docket entry.

4 MR. TRAFICANT: I am upset. You are denying
5 me the opportunity to defend myself.

6 THE COURT: It was issued on March 27th at
7 8:34 in the morning. It is an order denying Defendant's
8 motion regarding hearsay. It was posted on the docket at
9 that time. It was handed to you here in the courtroom, and
10 it probably also was sent out the usual way.

11 MR. TRAFICANT: Does it delineate the
12 tapes --

13 THE COURT: Do you still not have a copy of
14 it?

15 MR. TRAFICANT: I don't have it with me.

16 THE COURT: Would you like a few moments to
17 read a copy of it?

18 MR. TRAFICANT: I would appreciate it.

19 THE COURT: Thank you. And now you should
20 learn to read the docket. The docket has a big impact on
21 your case.

22 MR. TRAFICANT: Let me tell you what I know
23 about this case. All the impact --

24 THE COURT: We have all the motions you filed
25 and they filed, Congressman. You filed motions and they

1 filed motions. I think seven were filed yesterday morning.

2 I have a whole bunch of responses filed this morning.
3 That's part of your lawsuit. You have to pay attention to
4 it.

5 MR. TRAFICANT: Your Honor, I file motions
6 and you deny them. They file motions, and you sustain
7 them. And you have not had a level playing field here,
8 again for the record. You are a prosecution witness, as
9 far as I am concerned.

10 THE COURT: It would be a good idea --

11 MR. TRAFICANT: I would like to subpoena you,
12 put you on the stand, quite frankly.

13 THE COURT: Congressman, it would be a good
14 idea if you would remember the rules this courtroom
15 operates under that we started with long before the trial
16 began.

17 MR. TRAFICANT: I would like to ask into
18 another matter.

19 THE COURT: No, no. We are going to finish
20 with some of these matters.

21 MR. TRAFICANT: Fine.

22 THE COURT: The docket is what carries the
23 orders of the Court in the case. If you are not going to
24 read the docket yourself or have anyone else read it for
25 you, then you will continue to be surprised, because courts

1 rule on motions that are in front of them.

2 MR. TRAFICANT: Your Honor, I am not
3 surprised at any of your motions. I haven't even looked at
4 their evidence, and quite frankly, I know how you are going
5 to move an order before you do. But I was informed by the
6 press today, and if it was given to me yesterday by Jeff,
7 that I would state that I didn't see it.

8 Now, if you have anything more to say with that, I'm
9 fine. If not, I would like to know, since this was
10 admitted into evidence shouldn't the Court have taken it
11 and made it part of the record, this check?

12 THE COURT: Well, it was admitted into
13 evidence. We don't hold on to the evidence.

14 MR. TRAFICANT: How does the jury see it?

15 THE COURT: Well, at the time that the case
16 is submitted to the jury all the evidence that has been
17 admitted is taken by the lawyers, put together, we go
18 through it before the jury sees it, and it is sent back
19 with them.

20 MR. TRAFICANT: So you do not maintain them
21 once they are admitted in your own control and custody, and
22 it is a requirement of the lawyers to maintain a piece of
23 evidence that has been admitted in evidence?

24 THE COURT: Yeah.

25 MR. TRAFICANT: Okay. Fine. I am just the

1 son of a truck driver here, you know?

2 Now, I do have witnesses. I want to know if you want
3 to voir dire Ms. Kovachik first, who is here, or if you
4 want to go forward with the jury.

5 THE COURT: That's up to you. We are giving
6 you an opportunity by putting her on the stand and having
7 her say what it is what she would have said were she
8 allowed to answer the question.

9 MR. TRAFICANT: Why don't we go through with
10 hers since they released it, and why don't we go ahead with
11 her at this particular point and go ahead with her.

12 THE COURT: Bring her down.

13 MR. TRAFICANT: And I would ask for the
14 opportunity to examine the witness.

15 THE COURT: We will ask the question that was
16 here. If you get into more direct there may be some
17 cross-examination. If you are just going to ask her the
18 question here and ask what I need to make the ruling and
19 make your argument, whatever it is about how it is a
20 hearsay exception --

21 MR. TRAFICANT: Your Honor, I already know
22 how you are going to move. I want a direct examination,
23 for the record.

24 THE COURT: Of this witness?

25 MR. TRAFICANT: Yes, on this issue.

1 THE COURT: Well, you can ask her the
2 question that we asked.

3 MR. TRAFICANT: And I cannot ask her nothing
4 more than that relative to the conversation she had with
5 Mr. O'Nesti?

6 THE COURT: There never was a
7 cross-examination of her. If you do that, if you go
8 forward with that, you are going to open yourself up and
9 the witness up to being cross-examined by the Government.
10 Right now the Government isn't in a position to do that
11 because they said they had no cross.

12 MR. TRAFICANT: Because they are scared to
13 death of any of these witnesses.

14 THE COURT: No, no. Come on, Congressman.

15 MR. TRAFICANT: They have the testicles of an
16 ant. And I have subpoenaed a witness who I tried to
17 service subpoenas.

18 THE COURT: One of your witnesses is coming
19 into the room, so if you would try and hold your tongue.

20 MR. TRAFICANT: I would ask you to ask the
21 prosecution to constrain themselves.

22 THE COURT: You are still under oath. We
23 need to reask you a question from yesterday pertaining to
24 your answer.

25 The question was, "Did there come a time when you

1 rejoined -- did there come a time you rejoined the
2 Congressional staff?"

3 THE WITNESS: Yes.

4 THE COURT: And you said, "Yes, I rejoined
5 the staff after talking to Chuck O'Nesti," and you went on
6 and said some other things.

7 The question that was put to you is, "Did there come
8 a time you rejoined the Congressional staff?"

9 THE WITNESS: Yes.

10 THE COURT: Okay.

11 THE WITNESS: I had been attending spaghetti
12 dinner, and Chuck O'Nesti was usually there -- or he
13 wasn't there, but this one day that he was there, he was
14 there, and I was going out of the hall, and he was sitting
15 at a table by himself. And I said, "How are you doing,
16 Chuck?"

17 "Sit down. Where are you going?"

18 "I'm just heading out. What are you doing?"

19 "You working yet?"

20 "No."

21 "I told you to call Jim. You are a good worker. Get
22 back there. The girls are gone."

23 THE COURT: So you are testifying to things
24 he said.

25 THE WITNESS: I don't know. Do you want me

1 to say this?

2 MR. TRAFICANT: I would like to examine the
3 witness.

4 THE COURT: Excuse me. You should be
5 testifying the way that the rules indicate, which is that
6 you have to speak from your own experience about what
7 happened.

8 THE WITNESS: Okay.

9 THE COURT: What you know.

10 MR. TRAFICANT: I move that the Court read
11 her final statements to her, and I ask then to direct
12 examine this witness.

13 THE COURT: You want me to read the part that
14 is in this transcript?

15 MR. TRAFICANT: The last four lines.

16 THE COURT: "Yes. I rejoined the staff after
17 talking to Chuck O'Nesti, and with his encouragement, to
18 say, 'Linda, go back to the Congressman's office. I know
19 you are a good worker, and the Congressman needs you.' I
20 said, 'I don't know about these kickbacks, Mr. O'Nesti.'"

21 THE WITNESS: Yes.

22 MR. TRAFICANT: Read the last of the
23 statement.

24 THE COURT: I'm trying to. The witness is
25 talking, he says I had. There you were interrupted.

Kovachik - Voir Dire Direct

1 MR. TRAFICANT: Your Honor, can I now examine
2 this witness?

3 THE COURT: Let her answer the way she was
4 answering the question.

5 MR. TRAFICANT: Go ahead and answer that
6 final question.

7 THE WITNESS: I had not gotten any kickbacks
8 from Jim.

9 THE COURT: Okay. All right.

10 VOIR DIRE DIRECT EXAMINATION OF KOVACHIK

11 BY MR. TRAFICANT:

12 Q. Were you there -- did you approach Mr. O'Nesti?

13 A. We kind of seen each other at the same time. I seen
14 him, he seen me, waved to me, sit down.

15 Q. How long were you with him?

16 A. Oh, we chatted for -- I can't tell the time exactly.

17 Q. Was this shortly before he died?

18 A. It was in the month of October of '99, before he
19 died. He died in February. He was very sickly at that
20 time.

21 Q. How was his voice?

22 A. He was weakly, and with that cancer it was hard for
23 him to talk. That's why I kind of sat down and heard him,
24 got a better hearing on his voice.

25 Q. What was the main reason for talking about the job

Kovachik - Voir Dire Direct

1 with Mr. O'Nesti?

2 A. I was unemployed, and I needed work.

3 Q. Did you have any knowledge of what happened in my
4 office?

5 A. What I read and heard, and hearsay.

6 Q. As of what? Were there job openings?

7 A. There were people that had left. There was a staff
8 opening there, and it was going to be available. I was
9 interested in coming back.

10 Q. Was there anybody else that left that concerned you?

11 A. Jackie Bobby and Grace Yavorsky.

12 Q. Would you have reapplied had Jackie Bobby and Grace
13 Yavorsky still had been employed?

14 A. No. I don't think so, no.

15 Q. Would you have reapplied if Mr. O'Nesti said he gave
16 kickbacks?

17 MR. KALL: Objection. Speculative.

18 THE COURT: Uh-huh. Objection sustained.

19 BY MR. TRAFICANT:

20 Q. Did you at some point contact me?

21 THE COURT: Congressman, remember the purpose
22 we are here for: There is no jury listening to this
23 testimony, so don't go beyond what you want to go beyond in
24 order to establish there is an exception to hearsay here.

25 Q. Were you rehired?

Kovachik - Voir Dire Direct

1 A. Yes, sir.

2 MR. TRAFICANT: No further questions.

3 THE COURT: Thank you.

4 MR. KALL: No questions.

5 THE COURT: Thank you. You can step down.

6 THE WITNESS: Okay. Thank you, Judge. Do I
7 leave now?

8 THE COURT: Yes. You can leave. You are
9 released.

10 MR. TRAFICANT: Would you be prepared to go
11 forward with witnesses or do you want time to rule against
12 this witness?

13 THE COURT: Congressman, I would like you to
14 just be seated.

15 MR. TRAFICANT: I would prefer to stand.

16 THE COURT: Well, I'm so sorry, but you can't
17 do that right now because I am about to talk about a
18 different topic.

19 We have people from the public who have come in from
20 time to time into this courtroom. Posted outside the door,
21 probably delivered to some people who are in the courtroom
22 now, are things called Information for Trial Participants.
23 We have been over those with you since long before this
24 actual trial began. We have been over parts of these
25 persistently throughout the trial, and because of the

1 childish remarks that you just delivered a few moments ago
2 regarding the other people who are participants up here in
3 this case, I'm going to review these with you so that you
4 are clear.

5 These rules apply to all people who practice in this
6 courtroom. They apply to pro se litigants. They even
7 apply to people who are here just in the galley, members of
8 the public and press, and there is a sheet called
9 Information for Trial Participants. You've had it over a
10 long period of time and on many occasions.

11 In terms of the sixth item there, courtroom decorum
12 for counsel and pro se defendants, the first one is to
13 stand when making an objection. The second one, "Do not
14 interrupt the Judge or counsel." That's a continuing
15 problem we've had in this case --

16 MR. TRAFICANT: I object to that.

17 THE COURT: -- is that you interrupt the
18 Judge and counsel.

19 The next one is, "Follow the Judge's directions on
20 how to proceed." The next one is, "Cursing or profanity is
21 not permitted." The next one is, "After you have objected
22 and made your record for appeal, do not reargue or protest
23 the Judge's ruling." The next one is, "Do not disrupt the
24 proceedings." The next one is, "Insulting other parties,
25 counsel, the Judge, or jury by voice or demeanor is not

1 permitted."

2 It says here that the Court and the Marshal will
3 enforce these rules.

4 Another rule that we have gone over with you
5 repeatedly has to do with bringing evidence before the jury
6 that this Court explicitly prohibited you from presenting
7 to the jury. Yesterday in the afternoon was yet one more
8 ridiculous example of your trying to get a question out to
9 a witness at the end that has repeatedly been ruled not
10 relevant to this case and not part of this case.

11 MR. TRAFICANT: I object. You did not ask
12 that witness if I had solicited that remark.

13 THE COURT: I am not talking about Kovachik.
14 I'm talking about the witness who was on the stand
15 yesterday afternoon.

16 MR. TRAFICANT: What witness was that?

17 THE COURT: So you continue to violate the
18 basic rules that everybody, everybody is required to pay
19 attention to, and just because you are who you are in some
20 respect you must believe that you can do whatever you want
21 to in a court of law, but that's not true.

22 So I would like to go forward since we have jurors
23 here today, and I would like to tell you one more time what
24 the rules are and ask you to follow them so we can proceed
25 in a case that is fair to both sides.

1 We need -- we want to get your witnesses on. We
2 want you to be able to get your evidence in front of the
3 jury.

4 MR. TRAFICANT: What evidence? You have
5 stricken every bit of evidence.

6 THE COURT: Well, that's certainly not true,
7 and you said you had witnesses today.

8 MR. TRAFICANT: I want to ask a question of
9 the Court. Which of those have I violated, and what
10 witness did I violate yesterday?

11 THE COURT: We will give you a long
12 opportunity when the jury is gone home to discuss that.

13 MR. TRAFICANT: You made it a matter of
14 public record here now, and I think contemporary --

15 THE COURT: It has been a matter of public
16 record for a long time. These rules are posted in the
17 courthouse.

18 MR. TRAFICANT: Yes. And I believe you have
19 interrupted me during cross-examination before I had even
20 reached a reason for my questioning. I want that placed on
21 the record.

22 THE COURT: Good.

23 MR. TRAFICANT: That you have also my records
24 from Chicago, which is very unusual, in your chambers, and
25 I want now and request the order of Judge Aldrich to

1 produce the \$10,000 for the FBI to photocopy in that trial.

2 THE COURT: I have no idea what you are
3 talking about about \$10,000.

4 MR. TRAFICANT: You have my documents, and I
5 request you to give me that. And I ask you to allow me to
6 subpoena Judge Aldrich since she was interviewed by the FBI
7 about the Bucci case.

8 THE COURT: I don't know what you are talking
9 about, but that's not relevant to this.

10 Do you have witnesses here today, Congressman? Do you
11 have any more witnesses?

12 MR. TRAFICANT: I want to subpoena Judge
13 Aldrich first.

14 THE COURT: Then issue a subpoena, but get me
15 your witness.

16 MR. TRAFICANT: I will get my first witness.

17 THE COURT: Who is it?

18 MR. TRAFICANT: I already told the
19 prosecutor, Mr. Mack Gibson.

20 THE COURT: Mr. Matt Gibson?

21 MR. TRAFICANT: Mack as in Mack truck.

22 THE COURT: Are there any papers or
23 statements, or anything else, that need to be given to the
24 Government regarding this witness?

25 MR. TRAFICANT: No. He was just subpoenaed

Gibson - Direct

1 recently. I have no statements, nothing myself. They have
2 gotten exactly what I have, what they will hear.

3 THE COURT: Okay. We will bring in the jury.

4 (The following proceedings were held in the
5 presence of the jury:)

6 MR. TRAFICANT: Mack, just go up the
7 right-hand side there and sit up there beside the Judge.

8 THE COURT: Good morning, sir. Would you
9 raise your right hand?

10 THE WITNESS: Good morning.

11 ALBERT M. GIBSON, of lawful age,
12 a witness called by the Defendant,
13 being first duly sworn, was examined
14 and testified as follows:

15 DIRECT EXAMINATION OF ALBERT M. GIBSON

16 BY MR. TRAFICANT:

17 Q. Mack, there is water available to you, and if you sit
18 closer to the microphone you will be heard by the jury and
19 everyone else.

20 Would you please state your full name for the record,
21 and spell your last name?

22 A. Albert M. Gibson, G-i-b-s-o-n.

23 Q. And what is your address, Mr. Gibson?

24 A. 9231 Peck Road, Mantua.

25 Q. Heck?

Gibson - Direct

- 1 A. Peck, P-e-c-k.
- 2 Q. Mantua?
- 3 A. Yes.
- 4 Q. Do you go by a nickname?
- 5 A. Mack, Mack.
- 6 Q. Would you be offended if I referred to you as Mack?
- 7 A. No.
- 8 Q. How long have you known me approximately?
- 9 A. Approximately -- it has been a few years, seven,
- 10 eight, ten.
- 11 Q. What do you do for a living?
- 12 A. Well, I paint barns and do carpenter work, paint
- 13 factories.
- 14 Q. Do you have any special equipment?
- 15 A. I have a boom truck that I can get up like 60, 70
- 16 feet in the air.
- 17 Q. Do you still own that truck?
- 18 A. Yes.
- 19 Q. Is it an old or new truck?
- 20 A. Well, I bought it in '78, and it doesn't have many
- 21 miles on it, but it runs real good.
- 22 Q. What year model is it?
- 23 A. '78 Ford, F 600.
- 24 Q. When you say a boom on it, what kind of a boom does
- 25 it have?

Gibson - Direct

1 A. It has a pair ladder, 65 foot, where you can get up
2 65 foot and work on anything, and you can lift stuff up
3 with it, too.

4 Q. Well, how does it lift?

5 A. It has a winch. It has its own pair unit, a winch,
6 where you can run it out there and lift anything you want
7 to up.

8 Q. Does it slide, or does it fold, or does it --

9 A. It slides.

10 Q. Did you have to do any work on a farm in Greenford,
11 Ohio?

12 A. Yes.

13 Q. Do you recall how long ago that was?

14 A. Maybe five years ago.

15 Q. What was the first thing you did?

16 A. We put a roof on a small building up in the air, like
17 it must have been about 50 foot in the air.

18 Q. And how did you put that roof on?

19 A. We used that truck to get up there to get the roof
20 started on top of it because it was only a small building,
21 like eight by twelve or something.

22 Q. You said it was up high in the air?

23 A. Yeah, 50 foot.

24 Q. You thought it was 50 foot?

25 A. It was close to it, the top of it.

Gibson - Direct

- 1 Q. Was your ladder extended to 50 foot?
- 2 A. I don't know that. It was pretty close.
- 3 Q. What was the building constructed out of?
- 4 A. Wood, shingles, panelling for the sides.
- 5 Q. Well, what kind of a building was it? What was the
- 6 structure of the building?
- 7 A. It was supposed to be a deer stand, I guess.
- 8 Q. And what were the supports for this little building?
- 9 A. There were telephone poles or electric poles.
- 10 Q. Were the telephone poles already in the ground?
- 11 A. Yes.
- 12 Q. Was the platforms already done?
- 13 A. No, I don't think they was.
- 14 Q. What all did you do to the building?
- 15 A. We put a roof on it, put the sides on it, and I think
- 16 we put a floor in it.
- 17 Q. So there was something to put the floor on?
- 18 A. I believe there was two-by-fours where it was framed
- 19 up around it.
- 20 Q. Yes. Did you use new or used material for the walls?
- 21 A. It was used material.
- 22 Q. And to the best of your knowledge, what kind of
- 23 materials were there?
- 24 A. It was parts from doors where they had these like
- 25 garage doors, panels. It was real nice panels that had

Gibson - Direct

- 1 dents in there, you know.
- 2 Q. And did you install them?
- 3 A. Yes.
- 4 Q. Did you put the trusses on the building?
- 5 A. Yes.
- 6 Q. Did you put the sheeting on the trusses?
- 7 A. Yes.
- 8 Q. Then you put on the shingles?
- 9 A. Yes.
- 10 Q. Were you paid for that job?
- 11 A. Yes.
- 12 Q. How were you paid?
- 13 A. By check.
- 14 Q. Who paid you?
- 15 A. You did.
- 16 Q. Now, did there come a time when you did a second job?
- 17 A. Yes.
- 18 Q. Can you describe what that job was?
- 19 A. You wanted a roof put on a silo.
- 20 Q. What is a silo?
- 21 A. It is a tank that stands about 50 -- some of them can
- 22 be 60, 70 feet high -- that you put feed in for the dairy
- 23 cows, or some of them put sawdust in them now to bed
- 24 horses.
- 25 Q. What was the silo made out of?

Gibson - Direct

- 1 A. It was a cement structure.
- 2 Q. Was it --
- 3 A. Stakes.
- 4 Q. Was it round or square?
- 5 A. It was round.
- 6 Q. And what, if anything, did you do to that building,
- 7 to that silo?
- 8 A. We put a roof on it.
- 9 Q. And how did you do that?
- 10 A. Well, we got up there and just started building a
- 11 roof on it. We had to anchor into the wall with heavy
- 12 screws and build on up from there.
- 13 Q. And did you complete the job?
- 14 A. Yes. We got a roof on it.
- 15 Q. Did you build the trusses?
- 16 A. Yes.
- 17 Q. What kind of roof did it have on it?
- 18 A. It didn't.
- 19 Q. When you got done what kind of roof did it have on
- 20 it?
- 21 A. It had a nice peaked roof on it.
- 22 Q. What was the roof made out of?
- 23 A. Wood, shingles, plywood.
- 24 Q. Did you buy the material?
- 25 A. No.

Gibson - Direct

- 1 Q. Was it provided to you?
- 2 A. Yes.
- 3 Q. Did you get paid for the job?
- 4 A. Yes.
- 5 Q. How did you get paid?
- 6 A. You paid me by check.
- 7 Q. Did I ever ask you to do any work on the farm other
- 8 than that?
- 9 A. That's all.
- 10 Q. Did I ever hug you?
- 11 A. No.
- 12 Q. Did you ever hug me?
- 13 A. Not as I know of.
- 14 Q. What, if anything, did we do? Did we ever touch?
- 15 A. Just shake hands, I guess, when I met you.
- 16 Q. Do you fear me?
- 17 A. No.
- 18 Q. Do you live in my Congressional district? Do you have
- 19 knowledge if you live in my Congressional district?
- 20 A. No, I didn't. I lived in Portage County. I don't
- 21 think that was in your district.
- 22 Q. Do you know if Portage County is going to be in the
- 23 new 17th District?
- 24 A. No. I heard maybe it was, but I didn't know.
- 25 Q. Were you referred to me by someone?

Gibson - Direct

1 A. I think some guy I had worked for before, you know,
2 referred me to you.

3 Q. Do you recall the name?

4 A. Dominic.

5 Q. Dominic. Did you do this job over a period of time?

6 A. Yes.

7 Q. And why was that?

8 A. You've got to work with the weather. You just can't
9 work every day on something.

10 Q. Did you have other jobs in between?

11 A. I might have. It has been quite awhile. I can't
12 remember whether I was doing two jobs then or not.

13 MR. TRAFICANT: Thank you, Mack. No further
14 questions.

15 THE COURT: Just a moment, sir. They may have
16 some questions.

17 MR. KALL: No questions, Your Honor.

18 THE COURT: All right. Thank you. You are
19 released, sir.

20 MR. TRAFICANT: Your Honor, I will go get my
21 next witness, see what I have there.

22 THE COURT: Thank you.

23 MR. TRAFICANT: Your Honor, I call Melinda
24 Davies from Home Savings & Loan.

25 THE COURT: Fine.

Davis - Direct

1 MELINDA DAVIES,
2 of lawful age, a witness called by the Defendant,
3 being first duly sworn, was examined
4 and testified as follows:

5 THE COURT: Since everyone may want to hear
6 you in the back of the room, you may want to use the
7 microphone.

8 DIRECT EXAMINATION OF MELINDA DAVIES

9 BY MR. TRAFICANT:

10 Q. Linda, there is water there, and I will be with you
11 in a minute.

12 A. Thank you.

13 Q. Can you see this chart, Melinda?

14 A. Yes, I can.

15 Q. Have you been sworn under oath in this case before?

16 A. Yes, I was.

17 Q. Who did you testify for?

18 A. The prosecution.

19 Q. When you were interviewed by the prosecution, who was
20 the subject of their inquiry?

21 A. Basically it was with two different accounts, one for
22 a Henry DiBlasio and the other for R. Allen Sinclair.

23 Q. Did you testify to what they asked?

24 A. Yes, I did.

25 Q. In the matter regarding Mr. Sinclair, how many

Davis - Direct

1 accounts did they inquire about?

2 MR. MORFORD: Objection.

3 THE COURT: Well, if you remember or don't,
4 you can answer.

5 A. I believe we talked about one specific account.

6 Q. And what did that one account deal with?

7 A. That was Mr. Sinclair's personal account.

8 Q. And do you know what elements of the personal account
9 they had interest in?

10 A. Well --

11 MR. MORFORD: Objection as to what the
12 Government had interest in, Your Honor.

13 Q. Do you know what you testified to relative to the
14 prosecution's request?

15 THE COURT: Okay. That objection is
16 sustained.

17 Q. Do you know what you testified to and what checks you
18 testified to relative to the prosecution's request?

19 MR. MORFORD: Objection as to relevance.

20 THE COURT: You can answer if you know.

21 A. Yes. I do know what I testified to.

22 BY MR. TRAFICANT:

23 Q. And what was it?

24 A. There were questions concerning checking accounts and
25 deposits made into that account and checks that were

Davis - Direct

1 cashed.

2 Q. And where were those checks coming from?

3 A. Specifically there were U.S. Government paychecks.

4 Q. U.S. Treasury checks?

5 A. Yes, sir.

6 Q. Paychecks?

7 A. Yes, sir.

8 Q. Were you asked about anything other than that?

9 A. Yes.

10 Q. What was that?

11 A. Questions concerning the checking accounts of both

12 Mr. DiBlasio and Mr. Sinclair.

13 Q. Were you served with a subpoena by the Defendant?

14 A. Yes, sir.

15 Q. Did you comply with that subpoena?

16 A. I complied with as much as I was able to with the
17 reasonable amount of time provided.

18 Q. Are there still things pending that you have not yet
19 given me?

20 A. Yes, sir. We are still continuing the research.

21 Q. I want you to look through these, and I want you to
22 identify them for the jury. And if you would hold them up
23 one at a time, and then state if, in fact, these were given
24 to me by you, these documents.

25 THE COURT: Okay. Have you seen these?

Davis - Direct

1 MR. MORFORD: I don't know, Your Honor. We
2 may have, but we don't know if they are the same.

3 THE COURT: Okay. Congressman, you have to
4 let them see --

5 MR. MORFORD: Are these what you have given
6 us in the box, sir?

7 MR. TRAFICANT: These are all you have right
8 here.

9 MR. MORFORD: They are the same, right?

10 MR. TRAFICANT: They are exactly the same.

11 THE COURT: Okay. That's fine.

12 BY MR. TRAFICANT:

13 Q. Would you pick up the first packet and identify it?

14 A. The first packet is -- represents statements from
15 the personal checking account for R. Allen Sinclair and
16 Kimberly Sinclair.

17 Q. Does it have an exhibit number on it?

18 A. Yes, sir. HSL-1.

19 Q. -1?

20 A. Correct.

21 Q. And it is a personal joint account of --

22 THE COURT: Congressman, I don't know what
23 you are putting up there, but you can -- before we said
24 you can kind of keep notes as you go along, but you can't
25 testify from there to this jury, and you don't need to

Davis - Direct

1 reiterate her testimony, because they are hearing it.

2 Q. Is that the first account? Was there a second account
3 of the Sinclairs? What's the next exhibit that you have?

4 A. The next exhibit would be for KAS Enterprises.

5 Q. What's the next account that you have? What's the
6 exhibit number on KAS?

7 A. HSL-1D.

8 Q. What is the next account that you have?

9 A. The next account is a business account in the name of
10 R. Allen Sinclair, IOLTA trust account.

11 Q. What is an IOLTA trust account?

12 A. Stands for interest on lawyer trust account. It is
13 an account where lawyers and law firms deposit funds from
14 clients into a checking account for later repayment to
15 those clients.

16 Q. Now, are there any other further exhibits?

17 MR. MORFORD: Your Honor, we didn't get an
18 exhibit number on the IOLTA.

19 BY MR. TRAFICANT:

20 Q. What is the exhibit number on the IOLTA?

21 A. HSL-F.

22 Q. Was there another account?

23 A. I have another account in the name of Sinclair
24 Vending Company.

25 Q. And is there an exhibit number on that?

Davis - Direct

- 1 A. HSL-G.
- 2 Q. Is there another account for Mr. --
- 3 A. There is a business account in the name of R. Allen
- 4 Sinclair.
- 5 Q. And what is the exhibit number on that?
- 6 A. HSL-H.
- 7 Q. When you testified for the Government, you testified
- 8 relative to the treasury checks paid on payroll. Is that
- 9 correct?
- 10 A. Yes, sir. That was one of the areas I testified in.
- 11 Q. Now, I want to refer you to the -- first, let me ask
- 12 you: Are those the documents that you submitted to me?
- 13 A. Yes, sir.
- 14 Q. Have you reviewed them, and are they in the order
- 15 that you have delivered them to me?
- 16 A. Yes, sir.
- 17 Q. Would you know if I had delivered them to the
- 18 prosecution in the same order?
- 19 A. I would not know that.
- 20 Q. But have you gone through them and taken the time and
- 21 helped to identify them with defense exhibit numbers?
- 22 A. I went through them, yes, this morning.
- 23 Q. Now, I want you to look to the KAS account, and
- 24 whatever the exhibit number is, I want you to refer to
- 25 that.

Davis - Direct

1 But first, you can say there were five accounts
2 dealing with Mr. Sinclair. Is that correct?

3 A. That's correct.

4 Q. Of the five accounts, how many of those accounts
5 involve both Mr. and Mrs. Sinclair?

6 A. The personal account has both Mr. and Mrs. Sinclair
7 as signers. The KAS Enterprises has both Mr. or Mrs.
8 Sinclair as a signer, and Sinclair Vending has Mr. or Mrs.
9 Sinclair as a signer.

10 Q. What is the defense exhibit number for KAS again?

11 A. HSL-1D.

12 Q. Would you explain what that account is?

13 A. It is a business account that was opened with Home
14 Savings & Loan originally on November 30th, 1998.

15 Q. And who was listed as the person that had, in fact,
16 opened the account on November 30th, 1998?

17 A. Who opened the account in 1998?

18 Q. Yes.

19 A. The account was opened by R. Allen Sinclair.

20 Q. Were there any other names on the opening of the
21 first account?

22 A. No, sir.

23 Q. Now, was there later a second account opened?

24 A. The account was changed on December 11th, 1998, and
25 at that time, Kimberly A. Sinclair's name was added as a

Davis - Direct

1 signer to the account.

2 Q. Was R. Allen Sinclair still listed on the account?

3 A. Yes, sir.

4 Q. Was there any delineation as to titles?

5 A. The corporate agreement -- the corporate resolution
6 that the bank requires shows R. Allen Sinclair's name above
7 the line "president" and Kimberly A. Sinclair's name above
8 the line "secretary."

9 Q. I want you now to turn to page 2. Is page 2
10 identified by a defense exhibit number?

11 A. Yes.

12 Q. And what is the defense exhibit number?

13 A. HSL-1DA.

14 Q. 1DA. I want you to read the paragraph -- I would
15 like to see the documents since I only have that one copy.
16 I'd like to show it to the Judge.

17 Could you point to me the paragraph?

18 A. It would be the last paragraph.

19 MR. TRAFICANT: Your Honor, I would like for
20 you to look at the last paragraph before the signings.

21 I'd ask that you turn on the machine for me if one of
22 you can help.

23 MR. SMITH: Yes, sir.

24 MR. TRAFICANT: Thank you.

25 MR. SMITH: You are welcome.

Davis - Direct

1 MR. TRAFICANT: I would like to put this on
2 the screen.

3 THE COURT: Which paragraph do you want me to
4 read?

5 MR. TRAFICANT: The last paragraph before the
6 signatures is what I'm going to ask her to be witness to.

7 THE COURT: It was this one you wanted me to
8 read?

9 MR. TRAFICANT: The last paragraph before the
10 signatures.

11 THE COURT: All right. I read it.

12 BY MR. TRAFICANT:

13 Q. I would like you to look at this and look it over
14 first before I put it on the screen since it is a copy that
15 is, in fact, not as clear as it may appear on the screen.
16 So I want you to look at it. I want you to acclimate
17 yourself, and tell me when you have completed such.

18 Are you familiar with that last paragraph?

19 A. Yes, sir.

20 Q. Thank you.

21 MR. TRAFICANT: Can I darken this in any way,
22 fellows?

23 MR. SMITH: Flip it over, for one.

24 MR. TRAFICANT: Thank you. Can I borrow
25 another copy from the Government?

Davis - Direct

1 MR. MORFORD: Ours aren't labeled, but I
2 guess.

3 MR. TRAFICANT: Would you oppose letting me
4 use your document?

5 MR. MORFORD: If this is the right one.

6 Q. Since you cannot see all of this, I am going to ask
7 you to read the last paragraph as it is seen on the board
8 since it is not very clear.

9 A. "Further resolved that said Home Savings be and is
10 hereby authorized and directed to honor, pay, and charge to
11 any of the accounts of this corporation, without inquiry to
12 or responsibility for the application of the proceeds
13 thereof, all checks, drafts, notes, or other orders for the
14 payment, withdrawal, or transfer of funds or money
15 deposited in the account to the credit of this corporation,
16 and any instructions regarding same, and any authorizations
17 for the transfers of funds between different accounts of
18 the corporation, whether oral, by phone, or electronic
19 means, without inquiry as to the circumstances related
20 thereto and for whatever purpose or to whomever payable,
21 including requests for conversion of same into cash, as
22 well as for deduction from and payment of cash out of any
23 deposit, and whether or not payable to, endorsed, or
24 negotiated by or for the credit of any person signing same
25 or any other officer, agent, or employee of this

Davis - Direct

1 corporation when signed, accepted, endorsed, or approved as
2 evidenced by original or facsimile signature by any one of
3 the officers, agents, or employees of this corporation from
4 time to time holding the following offices of this
5 corporation."

6 Q. What, in essence, does paragraph two say about that
7 account?

8 A. That it would require one signature to withdraw
9 funds.

10 Q. Could either R. Allen Sinclair and Kimberly Anne
11 Sinclair without the consent of one another take funds from
12 that account?

13 A. Yes, sir.

14 MR. TRAFICANT: This is yours, gentlemen.

15 BY MR. TRAFICANT:

16 Q. Could you let me see the next exhibit? I would like
17 to put this up on the board. This will be known as Defense
18 Exhibit HSL-1DB. It is a corporate resolution designating
19 depository officers to sign for a corporation. It is two
20 pages and was signed November 30th. This is the very first
21 one that you had, in fact, testified to, the original
22 account, and who was listed as the president?

23 A. Raymond A. Sinclair.

24 Q. Now, were there checks deposited into this account?

25 A. Yes, sir.

Davis - Direct

1 Q. Did we give it a defense exhibit number?

2 Did you maintain these in some order? Could you find
3 the checks for KAS that were deposited? Take your time.
4 There is water over there if you need it.

5 A. Thank you. I'm fine.

6 THE COURT: She has them.

7 Q. Do you have the checks?

8 A. Yes, sir.

9 Q. Would you look at the checks? Are you now familiar
10 with the document?

11 A. Yes, sir.

12 MR. TRAFICANT: This is known as Defense
13 Exhibit HSL-1E.

14 Upon delivery of the subpoena did you submit this
15 note, and is this, in fact, your handwriting?

16 A. Yes, sir, it is.

17 Q. What is the reason for your statement on the bottom?

18 A. You had asked me whether or not one person was
19 eligible to withdraw from the KAS Enterprises account, and
20 according to the documents you subpoenaed, that information
21 was available to you. I was demonstrating to you where you
22 could find that document.

23 Q. Now, I'm going to turn this over without trying to
24 take this apart. Did your bank negotiate this check?

25 A. Yes, sir.

Davis - Direct

- 1 Q. And it is a United States Treasury check?
- 2 A. Yes, sir.
- 3 Q. And what amount is it made to?
- 4 A. I can't -- \$330.12.
- 5 Q. Uh-huh. And how was it negotiated?
- 6 A. The check was deposited into the account KAS
- 7 Enterprises.
- 8 Q. Could you describe what that check is?
- 9 A. That's a U.S. Treasury check.
- 10 Q. And how much is it made out to?
- 11 A. \$656 even.
- 12 Q. And who is it made out to?
- 13 A. KAS Enterprises.
- 14 Q. At what location?
- 15 A. The address on the check is 11 Overhill Road,
- 16 Youngstown, Ohio.
- 17 Q. Was that the address for KAS Enterprises?
- 18 A. Yes, sir.
- 19 Q. And was it, in fact, negotiated at your bank?
- 20 A. Yes, it was.
- 21 Q. And is that the order of deposit?
- 22 A. That is the endorsement stamp, yes, sir.
- 23 Q. Now, after having testified for the Government, were
- 24 these the amounts that were shown on Mr. Sinclair's pay
- 25 accounts, on his paychecks?

Davis - Direct

- 1 A. Were these checks the same amounts as his paycheck?
- 2 Q. Yes.
- 3 A. No, sir.
- 4 Q. Who was his paychecks made out to?
- 5 A. His paycheck was made payable to R. Allen Sinclair.
- 6 Q. Now, is this another check you negotiated?
- 7 A. Yes, sir.
- 8 Q. And how much was it for?
- 9 A. \$303.48.
- 10 Q. Did you negotiate that check?
- 11 A. Yes, sir. It was deposited into the account for KAS
- 12 Enterprises.
- 13 Q. And how much was that check for?
- 14 A. \$656 even.
- 15 Q. And who was it paid to?
- 16 A. Payable to KAS Enterprises.
- 17 Q. And "deposited by" stamp?
- 18 A. That's correct, deposited into account for KAS
- 19 Enterprises.
- 20 Q. What was that check in the amount of?
- 21 A. \$134.66.
- 22 Q. And was it deposited, negotiated at your bank?
- 23 A. Yes, sir. It was deposited into the account of KAS
- 24 Enterprises.
- 25 Q. And negotiated at your bank?

Davis - Direct

- 1 A. Correct.
- 2 Q. What is the month and date of that one?
- 3 A. This check is dated November 22nd, 1999.
- 4 Q. And how much is it for?
- 5 A. \$656 even.
- 6 Q. Have you had several checks that say \$656 even?
- 7 A. Yes, sir.
- 8 Q. And was this negotiated at your bank?
- 9 A. Yes, it was. It was deposited into the account of
- 10 KAS Enterprises.
- 11 Q. Would you identify this check and read the date?
- 12 A. The check is a United States Treasury check. It is
- 13 dated December 20th, 1999.
- 14 Q. And how much is it for?
- 15 A. \$656 even.
- 16 Q. And where was it sent?
- 17 A. To KAS Enterprises, at 11 Overhill Road, in
- 18 Youngstown.
- 19 Q. And you negotiated that check?
- 20 A. Yes, sir. It was deposited into the account of KAS
- 21 Enterprises.
- 22 Q. Would you read the date on this check?
- 23 A. January 21st, the year 2000.
- 24 Q. Did you negotiate that check?
- 25 A. Yes, sir. That check was deposited into the account

Davis - Direct

1 of KAS Enterprises.

2 Q. Does that language mean any special thing?

3 A. Those documents are used as that check went through
4 our processing system at night.

5 Q. And how much was that check for?

6 A. \$103.72.

7 Q. Was that negotiated at your bank?

8 A. Yes, sir, it was deposited into the account of KAS
9 Enterprises.

10 Q. What is the date on that check?

11 A. February 18th, 2000.

12 Q. And for how much?

13 A. \$656 even.

14 Q. Was it negotiated at your bank?

15 A. Yes, sir. It was deposited into the account of KAS
16 Enterprises.

17 Q. And what date is that?

18 A. March 20th, 2000.

19 Q. And for what amount?

20 A. \$656 even.

21 Q. Did you negotiate that check at your bank?

22 A. Yes. It was deposited to KAS Enterprises.

23 Q. Did you negotiate that check?

24 A. It was deposited into the account of KAS Enterprises.

25 Q. For how much?

Davis - Direct

- 1 A. \$112.52.
- 2 Q. What was the date on this check?
- 3 A. April 20th, 2000.
- 4 Q. And for how much?
- 5 A. \$656 even.
- 6 Q. And was it deposited where?
- 7 A. At Home Savings & Loan for KAS Enterprises.
- 8 Q. And how much was that check made for?
- 9 A. \$164.48.
- 10 Q. And did you negotiate it?
- 11 A. Yes. It was deposited to KAS Enterprises.
- 12 Q. This is pretty hard to read, but can you read it?
- 13 A. Yes, I can read it.
- 14 Q. Go ahead and see if you can try and read it.
- 15 A. The amount of the check is \$656 even. It is payable
- 16 to KAS Enterprises, and it was deposited into the account
- 17 of KAS Enterprises.
- 18 Q. And what is that?
- 19 A. When I delivered the subpoenaed documents to you, I
- 20 asked you to sign that you did receive the documents
- 21 pursuant to that subpoena.
- 22 Q. Now, I want you to take this document, and I want you
- 23 to count how many checks total \$656, not the total of those
- 24 checks, but how many \$656 checks were written and cashed
- 25 into that account?

Davis - Direct

- 1 A. Nine checks that total \$656 even.
- 2 Q. Only nine?
- 3 A. That's correct.
- 4 Q. Did you search for any others?
- 5 A. We have searched for others, yes, sir.
- 6 Q. Now, do you have any other checks of \$656?
- 7 A. I'm not aware of any at this time.
- 8 Q. Do you know how long Mr. Sinclair worked for the
- 9 Congressman?
- 10 A. No, sir.
- 11 Q. Do you know if it was more than nine months?
- 12 A. I don't know, sir.
- 13 Q. Now, with this KAS account, either or both could have
- 14 taken these dollars and used them for their personal use?
- 15 A. Any of the funds in the account KAS Enterprises could
- 16 be withdrawn by either R. Allen Sinclair or Kimberly
- 17 Sinclair.
- 18 Q. For example, could Mr. Sinclair buy a suit of
- 19 clothes?
- 20 A. I can testify that he could withdraw funds from that
- 21 account.
- 22 Q. And he could use it for whatever he wanted: Could
- 23 you testify to that?
- 24 A. Yes, sir.
- 25 Q. Did you find any other -- are there still matters in

Davis - Direct

1 my subpoena pending?

2 A. Yes, sir. All the research has not been completed up
3 to this point.

4 Q. How many accounts have you identified?

5 A. Five accounts.

6 Q. Were any of the accounts that we talked about today
7 paychecks?

8 A. Were any of the accounts paychecks, were any of the
9 accounts, did they have paychecks deposited into them.

10 Q. Yes.

11 A. The answer is yes, there appeared to be paychecks
12 deposited into the personal account.

13 Q. Was that a joint account?

14 A. Yes, sir.

15 Q. There were three joint accounts of the five?

16 A. Correct.

17 Q. Now, I want you to refer to the vending business.

18 What was the defense exhibit number on the vending
19 business?

20 A. HSL-G.

21 Q. I want you to look those documents over very
22 carefully. Who was eligible to the funds from HSL-G?

23 A. The signers on the check are R. Allen Sinclair or
24 Kimberly A. Sinclair.

25 Q. Did you find any \$656 checks in there?

Davis - Direct

1 A. Not to my knowledge.

2 Q. Describe the volume of activity of HSL-G and how much
3 money had gone through HSL-G.

4 A. I don't have an actual dollar amount of funds either
5 being deposited or withdrawn from the account. There is
6 not a lot of activity on that account.

7 Q. By "not a lot of activity," how much activity? Would
8 you estimate it in hundreds or thousands? Could you look at
9 several?

10 For example, give me one document, and tell me how
11 much was deposited.

12 A. I have a statement dated January 31st of 2000. For
13 that one-month period there was one deposit to that account
14 for \$490 even.

15 Q. And what was the nature of the deposit?

16 A. I don't know that.

17 Q. Could you see the back of it? Would you know if it
18 was cash or check?

19 A. I don't know that.

20 Q. Are you familiar with vending businesses?

21 A. Not really.

22 Q. It is your testimony there was very little, if any,
23 activity in HSL, in Sinclair Vending?

24 A. I would agree with that statement, not a lot of
25 activity in this business account.

Davis - Direct

1 Q. But you do not know whether or not these were cash
2 machines, or would you write a check for this vending
3 machine? Would you have any knowledge?

4 A. I don't understand the question, sir.

5 Q. When you use a vending machine, do you put cash into
6 it or checks into it?

7 MR. MORFORD: Objection, unless she has
8 knowledge about this company.

9 THE COURT: She said she didn't have any
10 special knowledge of vending.

11 BY MR. TRAFICANT:

12 Q. Have you ever purchased a bottle of soda?

13 THE COURT: It wouldn't matter.

14 Q. Would you put these back in some order and semblance
15 in which we had them? And I apologize for that.

16 Did the Government subpoena all of Sinclair's
17 accounts?

18 A. No, sir.

19 Q. What account did the Government subpoena?

20 A. The personal checking account.

21 Q. Is that all they asked for?

22 A. No. There was more information subpoenaed on other
23 accounts.

24 Q. I'm talking about the Sinclair account.

25 A. They subpoenaed just the information on the personal

Davis - Direct

1 checking account.

2 Q. Now, in concluding my testimony with you, there were
3 three accounts that both could take funds from
4 independently of the approval of the other party. Is that
5 a correct statement? Yes or no.

6 A. Yes.

7 Q. Do you know who withdrew from those accounts?

8 A. I would need to review each of the checks on all of
9 the accounts to positively identify who withdrew funds.

10 Q. Is that part of your continuing search?

11 A. Yes. There is some information yet that we are
12 continuing to search. I did provide many of the checks in
13 response to the subpoenas that you had issued.

14 Q. Did you respond to every and all \$656 check that you
15 had in your possession? Is that all that you were able to
16 find through your search?

17 A. To this point, yes, sir.

18 Q. Could there be more \$656 checks deposited to that
19 account?

20 A. That's possible.

21 Q. Do you memorialize and have a computer system?

22 A. Yes, sir.

23 Q. When an account of this nature pops up would not all
24 the activity of KAS pop up?

25 A. In doing research, the researched items are stored by

Davis - Direct

1 the bank in different areas, so deposited items are not
2 necessarily stored with the checks, which are not stored
3 with the statements. So it would take researching all the
4 areas, and that's a lengthy process generally.

5 Q. But you were able to find nine \$656 checks?

6 A. Yes, sir.

7 Q. Now, wouldn't those checks all be kept in the same
8 location?

9 A. In our archival material, no, they are not all stored
10 together, no, sir.

11 Q. So you could find others from other accounts?

12 A. There could be other \$656 checks that I have not been
13 able to research enough to find those at this point in
14 time.

15 Q. From your knowledge as a banker, could this check be
16 negotiated at any other banks?

17 A. Yes. It could be negotiated at another bank.

18 Q. So in other words, could Mrs. Sinclair come into
19 Jones Bank and sign it and endorse it, and would the bank
20 negotiate a U.S. Treasury check?

21 A. Generally speaking, it is common bank practice that a
22 check payable to a business needs to be deposited into an
23 account with that business name.

24 Q. So it should have been deposited at your account?

25 A. Correct.

Davis - Direct

1 Q. Would you accept another -- would you accept a U.S.
2 Treasury check that you did not have an account on?

3 A. If it was payable to a business, no. We would want
4 it deposited into an account. We would not just cash that
5 check.

6 Q. And you have found nine?

7 A. Yes, sir.

8 Q. Now, if you can approximate when the rest of your
9 subpoena search will be completed relative to the
10 Defendant's request of subpoena for material at the bank?

11 A. We received the first subpoena request on Friday,
12 March 8th; began the research on the 11th and 12th, and I
13 was required to appear here on the 13th with the documents.
14 At that point, we gathered as many documents as we could,
15 and at that time in order to comply fully with the subpoena
16 I had estimated about two months worth of time to look up
17 every deposited item on all five accounts.

18 Q. So you still need how many more days to conclude your
19 accounting?

20 A. A month and a half.

21 MR. TRAFICANT: No further questions at this
22 time.

23 THE COURT: Thank you. We will take our
24 morning break, 30 minutes. We will have to keep you
25 around. We will have a break. Okay? Thank you.

Davis - Direct

1 (Thereupon, a recess was taken.)

2 (Proceedings out of the presence of the jury.)

3 THE COURT: Congressman, are you ready to
4 proceed?

5 MR. TRAFICANT: I did not rest with the
6 witness?

7 THE COURT: You are standing up, so I
8 wanted --

9 MR. TRAFICANT: Oh, I'm sorry. I thought I
10 rested with the witness.

11 THE COURT: You didn't say anything. The
12 witness is here. The Government may want to inquire of the
13 witness.

14 MR. MORFORD: Yes, but I asked Jeff if I
15 could address one matter. There is a witness who we have
16 been told is going to testify today by the name of Mark
17 Colucci, and I don't know what the Congressman intends to
18 ask Mr. Colucci, but I would ask the Court if he intends to
19 go into that area that we do it outside the jury's presence
20 through a voir dire, because I don't believe it is relevant
21 to the charges in this case, but it could result in a
22 virtual mini trial on some things, and that has to do with
23 his attempt to represent Clarence Broad in a civil suit he
24 tried to file against me that Judge Nugent threatened him
25 with sanctions.

Davis - Cross

1 THE COURT: Okay. If anything like that comes
2 up, you object, and we will deal with the objection.

3 MR. MORFORD: I just wanted to give the Court
4 a heads-up that that may arise.

5 MR. TRAFICANT: Your Honor, I may also
6 attempt to qualify Mr. Colucci as an expert having
7 practiced law for 18 years, but he is here to testify first
8 on another matter.

9 THE COURT: Good. What sort of an expert is
10 he going to qualify as?

11 MR. TRAFICANT: On the law.

12 THE COURT: The court determines whether
13 he'll qualify as an expert and instructs on law during the
14 trial. He can testify if he has something to say about the
15 facts of the case. Okay? Bring in the jury.

16 (Proceedings held in the presence of the jury.)

17 THE COURT: You can proceed.

18 MR. MORFORD: Thank you.

19 CROSS-EXAMINATION OF MELINDA DAVIES

20 BY MR. MORFORD:

21 Q. Good morning.

22 A. Good morning.

23 Q. The Congressman showed you a number of monthly checks
24 payable to KAS in the amount of \$656 that were negotiated
25 with your bank. Is that correct?

Davis - Cross

1 A. Correct.

2 Q. And I believe you testified there were nine of them
3 that you found. Is that correct?

4 A. That's correct.

5 Q. Now, do you know if those checks were rent checks
6 that were payable to KAS?

7 A. I would have no way of knowing that from the face of
8 the check.

9 Q. He also showed you a number of lesser monthly checks
10 payable to KAS. Do you know if those were for utilities,
11 cleaning expenses, those kind of things?

12 A. Again, that's not stated on the face of the check. I
13 would not know that.

14 Q. So all you know is they were checks, and you don't
15 know what they were for?

16 A. Correct.

17 Q. Do you know the business for which KAS is engaged?

18 A. No.

19 Q. Now, Congressman Traficant asked you whether there
20 could be some additional \$656 checks beyond the nine that
21 you have located, correct?

22 A. That's correct.

23 Q. Now, isn't it true that after a check clears it is
24 returned to the institution that originally originated the
25 check?

Davis - Cross

1 A. Yes.

2 Q. And could you tell from these checks what the
3 institution was that originated the checks?

4 A. Well --

5 Q. I will show you again, the Congressman showed you
6 HSL-1 -- just picking one randomly -- this one is dated
7 4-20-2000, \$656, payable to KAS Enterprises?

8 A. Correct.

9 Q. And what is the institution that generated this check
10 originally?

11 A. United States Treasury.

12 Q. And does it indicate which branch of the Government?

13 A. At the top, the phrase says U.S. House of
14 Representatives, Washington, D.C.

15 Q. So to the extent that there were three or four months
16 of checks you can't find in the amount of \$656, isn't it
17 true that the Congressman could go to Congress and find
18 those checks, because that's where they end up after --

19 MR. TRAFICANT: Objection.

20 THE COURT: She can answer.

21 Q. -- after your bank negotiates them, correct?

22 A. Yes.

23 MR. MORFORD: I have nothing further.

24 THE COURT: Any questions?

25 MR. TRAFICANT: Absolutely.

Davis - Redirect

1 REDIRECT EXAMINATION OF MELINDA DAVIES

2 BY MR. TRAFICANT:

3 Q. Do you know if I served a subpoena on the U.S. House
4 of Representatives?

5 A. I don't know that, sir.

6 Q. Did the U.S. House of Representatives send the check?

7 A. It is a U.S. Treasury check.

8 Q. Is the U.S. House of Representatives a part of the
9 overall umbrella of the federal government, to the best of
10 your knowledge?

11 A. Yes, sir.

12 Q. And is the U.S. Treasury the depositor of revenue
13 funds?

14 MR. MORFORD: Objection unless she knows,
15 Your Honor.

16 THE COURT: Well, she has a chance to think
17 before she answers.

18 A. I believe so, yes.

19 Q. Does the U.S. Treasury write the checks for the
20 Government?

21 A. Yes.

22 Q. Are you still looking for checks?

23 A. Yes, sir.

24 Q. Were the \$656 checks the same amount that the U.S.
25 Government showed you as payroll checks?

Davis - Redirect

1 A. No.

2 Q. Did Mr. Sinclair have access to the checks that I
3 wrote on that paper and you testified to this morning?

4 A. Can you clarify that question for me?

5 Q. Could Mr. Sinclair go in and take the money out of
6 those accounts of KAS?

7 MR. MORFORD: Objection. It has been asked
8 and answered several times.

9 THE COURT: Many times.

10 MR. TRAFICANT: It was brought up on direct
11 -- on cross.

12 THE COURT: Well, whatever. I think the jury
13 has the information. You need to move on.

14 Q. Were the \$300 checks, were they different than the
15 U.S. Treasury paychecks to Mr. Sinclair?

16 A. Yes.

17 Q. Was the \$104 check different than the U.S. payroll
18 check to Mr. Sinclair?

19 A. Yes, sir.

20 Q. And on all five accounts, Mr. Sinclair needed no
21 permission to draw funds?

22 MR. MORFORD: Objection, again. This has
23 been asked and answered.

24 THE COURT: Go ahead and answer for the last
25 time. Thank you.

Colucci - Direct

1 A. Yes.

2 MR. TRAFICANT: No further questions.

3 MR. MORFORD: Nothing further.

4 THE COURT: Thank you very much.

5 MARK COLUCCI,

6 of lawful age, a witness called by the Defendant,

7 being first duly affirmed, was examined

8 and testified as follows:

9 DIRECT EXAMINATION OF MARK COLUCCI

10 BY MR. TRAFICANT:

11 Q. Good morning, Mark.

12 A. Good morning, Congressman.

13 Q. Would you please give your name and spell your last
14 name for the jury?

15 A. Mark Colucci, C-o-l-u-c-c-i.

16 THE COURT: You can take that mike out if you
17 want to. It is up to you. We just need to hear you all
18 the way in the back.

19 THE WITNESS: Thank you, Judge.

20 Q. And where do you reside?

21 A. In Austintown, Ohio.

22 Q. And what is your current employment?

23 A. I am self-employed.

24 Q. And what is your pursuit of business?

25 A. I am a lawyer.

Colucci - Direct

1 Q. Are you licensed in the State of Ohio?

2 A. Yes, I am.

3 THE COURT: It is probably easier for you to
4 take it out and hold it.

5 BY MR. TRAFICANT:

6 Q. Are you licensed to practice in any other states?

7 A. Well, I am licensed in the State of Ohio. I am
8 licensed in the United States District Court for the
9 Northern District of Ohio. I am licensed in the Sixth
10 Circuit Court of Appeals, Cincinnati. I am licensed in the
11 Third Circuit Federal Court of Appeals in Philadelphia. I
12 am licensed with the United States Supreme Court in
13 Washington, D.C., and I am a member of the American Trial
14 Lawyers Association.

15 Q. Have I asked you to do any research on laws ,numbers?

16 A. Yes.

17 Q. Was that research relative to laws and my strategy?

18 A. I believe so.

19 Q. How long have you known me?

20 A. I think I first met you when I helped you in your
21 campaign for sheriff back in the early '80s, 1980, and
22 maybe a little before that.

23 Q. How long have you been an attorney?

24 A. For 18 years.

25 Q. Were you an attorney when you helped me in the

Colucci - Direct

1 sheriff race?

2 A. No. I was still in school.

3 Q. Law school?

4 A. I graduated in '83 from Cleveland State, but I think

5 I would have been at Hiram College at that time.

6 Q. Your undergrad was at Hiram?

7 A. Yes.

8 Q. Did you ever practice before the Supreme Court?

9 A. Well, I have a petition right now for certiorari
10 before the United States Supreme Court. I have never had
11 the honor or privilege of arguing the case there yet. I am
12 hopeful.

13 Q. What does the petition before the Supreme Court deal
14 with?

15 A. You have to set forth grounds why your case is worthy
16 of their taking a case and involves filing a written brief,
17 and a number of requirements. And I have done that a
18 number of times.

19 Q. Have you appeared before the Third Circuit Court in
20 Philadelphia?

21 A. Yes, I have.

22 Q. Have you appeared before the Sixth Circuit Court in
23 Cincinnati?

24 A. Many times.

25 Q. Have you appeared in the Northern District Court of

Colucci - Direct

1 Ohio?

2 A. For 18 years.

3 Q. Do you own your own law firm?

4 A. Yes. It is just me.

5 Q. Do you know a man by the name of David Sugar, Jr?

6 A. Yes, I do.

7 Q. How did you come to learn that name?

8 A. I represented David, Jr. --

9 THE WITNESS: And Your Honor, for the
10 record, what I am about to say is all public record.

11 I represented him in a case in Delaware, Ohio, which
12 is near Columbus, a few years ago.

13 Q. What was the nature of that representation?

14 A. I believe it was a third DUI, third or fourth DUI.

15 Q. Was that matter referred to you, or did he come to
16 you personally?

17 A. Anthony from your office called and asked for help.
18 It was referred to me.

19 Q. Did you meet with Mr. Sugar?

20 A. Yes, I did.

21 Q. Jr?

22 A. Yes.

23 Q. Where did you meet with him?

24 A. Well, I was called the day before his sentencing, and
25 I met him when I went down to have his prior lawyer

Colucci - Direct

1 discharged from the case because the prior lawyer for him
2 was actually the Magistrate Judge who took his arraignment
3 and set his bond, and then he ended up representing him.

4 Q. Was that a concern of the Sugar family?

5 A. Yes. I believe in general the concern was that
6 beside the fellow being the judge and then turning into the
7 lawyer that he said there would be a trial, and then right
8 at the end he pled him out. My understanding was they were
9 concerned that they were not being dealt with honestly with
10 that particular lawyer, and the judge in Delaware did order
11 him to withdraw and allowed me to enter an appearance.

12 Q. Did you then enter an appearance on behalf of David
13 Sugar, Jr.

14 A. Yes, I did. I represented him in the case.

15 Q. Was the case postponed because of that change?

16 A. Well, if I may say what happened, the day I went
17 down, the Judge -- I'm just going from memory -- he
18 allowed the change, but eventually, it was either that time
19 or the second time, he sentenced him. He went to jail, and
20 I pursued trying to file motions to have the judge give him
21 a bond for an appeal because of what I believed was a
22 serious matter.

23 The judge denied that, and the Court of Appeals
24 denied that, so there were several hearings. I went down
25 to Delaware at least three or four times, at least three

Colucci - Direct

1 hours each way, and I did file and represent him in the
2 Fifth District Court of Appeals on that case. And I did
3 eventually win that appeal, and his conviction was
4 reversed, and that was about a year or a year-and-a-half or
5 two, in my recollection.

6 Q. Was it after he had finished his jail service?

7 A. He served his time, yes. Yeah, they would not allow
8 a bond.

9 Q. But after he served his sentence now, you had it
10 reversed on appeal?

11 A. Yes, a unanimous decision. The three judges reversed
12 his conviction and ordered a new trial because of the
13 ethics problem.

14 Q. Was there ever a new trial?

15 A. Well, at that time his father wouldn't pay for it,
16 and I withdrew. That was it. I wouldn't work for free. I
17 didn't on the first time.

18 Q. I didn't hear you about the first time.

19 A. Well, you know, I was retained. I represented him on
20 one, two, three -- at least three to four appearances in
21 Delaware. That's six hours each way. And then the appeal
22 in the Fifth District involved writing a brief and
23 appearing for an oral argument, and that's in Canton. So I
24 charged a fee, and he paid it.

25 Q. What was the fee you charged?

Colucci - Direct

1 A. I mean, again, it is not a confidential thing, but it
2 was -- it was a standard fee. It wasn't anything heavy.

3 THE WITNESS: Should I --

4 THE COURT: You are the one that has to decide
5 if you can reveal it.

6 A. I mean, if he would sign a release I would tell you,
7 but I did not work for free. I did not work -- it was not
8 an excessive fee.

9 Q. Was it in excess of \$5,000?

10 A. Well, I can't get into the particulars, but, yeah.

11 Q. Okay. Were you ever asked to represent him further?

12 A. Well, after going through the appeal, I mean, he
13 wanted -- he was just having a child, and he had to get
14 back to work, and he wanted to have a trial to get his
15 conviction or to get the current charge acquitted because,
16 you know, another charge like that would mean a bad thing.

17 Q. Did you charge the father, did you say the father's
18 fee would be \$25,000?

19 A. Not to my recollection. In fact, I reviewed my file,
20 and if I can say, Congressman, I spoke to his father
21 numerous times on his father's cell phone on the
22 construction site. He knew what the fee was. He paid it.

23 And the second time I faxed a letter to his dad, and
24 it was almost -- I would be losing money doing the case,
25 but I wanted to try to help him because I had gone that

Colucci - Direct

1 far.

2 Q. Did I ask you to bring with you today that letter?

3 A. Yes.

4 Q. When did you give it to me?

5 A. Well, maybe -- I had to go back to my car to get it.
6 In the jury room I gave it to you.

7 Q. How long ago?

8 A. Just before I came in here is when you got it.

9 Q. Would you look at that document. Does it have an
10 exhibit number on it?

11 A. It is marked as Defendant's Exhibit MC-100.

12 MR. TRAFICANT: Can I put this on the screen,
13 Your Honor?

14 Q. Would you object to that?

15 A. No. I don't believe that's confidential, statutory
16 confidential communication.

17 Q. I think it has to heat up awhile. Is there any way
18 to lighten these things up?

19 Is that your letterhead?

20 A. Yes, it is.

21 Q. Is that the exhibit number?

22 A. Yes.

23 Q. Is this the document you had given to me shortly
24 before you came in?

25 A. Yes.

Colucci - Direct

1 Q. Is that big enough for you to read?

2 A. I could basically see it. I know what it says,
3 having been in my file.

4 Q. Would you please read that?

5 A. Well, it basically says, if I can just get to the
6 heart of it, it is about the new trial, and it is addressed
7 to David Sugar, Jr. and David Sugar, Sr.

8 Q. Why did you address it to both?

9 A. His father was involved in paying his fees.

10 Q. How old was his son?

11 A. He was a young man, in his late 20s, 30s. I am not
12 sure.

13 Q. Is that why you addressed it to both?

14 A. Well, no. With regards to -- well, first of all, as
15 a matter of my definite recollection, I had his permission
16 to discuss his case with his dad, which I did many times
17 over the phone, and his father was the one paying for the
18 defense. And that's why I addressed it both to my client
19 and to his father with regards to what I would be willing
20 to do for them, because he was complaining about having a
21 money problem, and it just says, basically, I would retry,
22 have a jury trial --

23 Q. I would like you to read the first paragraph.

24 A. "Please allow the correspondence to confirm our
25 discussion of this date where I advised you I would reduce

Colucci - Direct

1 my requested fee as a courtesy to you from \$15,000 to
2 \$5,000 to try the above-referenced matter before the jury."

3 Q. Stop right there. What case was that now being
4 discussed?

5 A. This was the retrial after I had won the appeal, and
6 the case was sent back to the Delaware Court for trial.

7 Q. How many trips would it take you to make back and
8 forth to try this case?

9 A. Well, it would be a jury trial. There would be a
10 pretrial. At least five to six, seven maybe, depending if
11 I stayed overnight during the trial.

12 Q. Did that include expenses?

13 A. That was it. In my practice, if I take a case this
14 far, I try to stay with it to follow it through. Having
15 had it reversed, I would retry it because of the issue.

16 Q. I want you to read the second paragraph.

17 A. "I believe I am being very fair to you in light of
18 the time and travel" --

19 MR. TRAFICANT: Can I use your copy,
20 gentlemen, since you can read the board? Is this the same
21 copy that is on the board?

22 MR. MORFORD: Yes.

23 Q. Could you read the second paragraph and then hold?

24 A. "I believe I am being very fair to you in light of
25 the time and travel involved in this case. I would ask

Colucci - Direct

1 that you make this payment no later than Friday, February
2 18, 2000. Unfortunately, if you do not make this payment,
3 I will be forced to withdraw as your counsel. As you know,
4 the trial is just about one month away, and I also have two
5 jury trials immediately preceding your case and need to
6 immediately begin preparing for all cases.

7 "In addition, I must again travel to Licking County
8 in light of the fact that this matter had to be reset due
9 to the birth of your child."

10 Q. Did you ever tell the Sugar family you demanded
11 \$25,000 for this trial?

12 A. Not to my recollection. If I can state for the
13 record, that was faxed to Mr. Sugar, Jr.'s workplace.
14 That's why I put "office" on there. There is a shop fax on
15 there.

16 THE COURT: It is better if you wait until
17 there is a question before you give an answer.

18 THE WITNESS: Thank you, Judge.

19 BY MR. TRAFICANT:

20 Q. DUI laws in Ohio have changed significantly, have
21 they not?

22 A. I believe they have evolved. They are more complex
23 than when I first started practicing.

24 Q. The retrial was more directed, would you say, not to
25 the behavior but the conflict of the

Colucci - Direct

1 attorney-judge-magistrate ruling?

2 A. I think that would have played a part in it, plus
3 those other facts.

4 Q. What were those other factors?

5 A. The probable cause issue, I believe he was stopped by
6 a park ranger, and the issue of the field sobriety test.
7 The usual defense you would put up in a case like this.

8 Q. Did you take the time to go over all records?

9 A. Yes.

10 Q. Did the Sugars comply with all records requests?

11 A. Yes. They cooperated with it.

12 Q. How many times did you travel and meet with the
13 Sugars?

14 A. I met with David Sugar, Jr. many times, and at the
15 proceedings.

16 Q. What courthouse?

17 A. Down in Delaware County toward Columbus.

18 Q. And you had to drive down there?

19 A. Yes.

20 Q. And how long would those meetings take?

21 A. Well, we would meet, for example, if we had a
22 hearing, I would meet him. I also visited him when he was
23 in the county jail, you know, an hour or two, then the
24 drive time is six hours.

25 Q. At any time did you make an excessive demand for

Colucci - Direct

1 fees?

2 A. No, not at all.

3 Q. Whose decision was it not to proceed?

4 A. Well, it was my decision not to because they didn't
5 pay, and I just couldn't -- I had two other cases. I just
6 couldn't do it for nothing.

7 Q. Were you asked to do it for nothing?

8 A. No, no.

9 Q. Did you reduce your fee to \$5,000?

10 A. Yes, for what I believe was the full circle.

11 Q. Is it difficult to get a case reversed on appeal?

12 A. Yes. About --

13 MR. MORFORD: Objection.

14 THE COURT: That would be hard, unless you
15 are talking about his own record.

16 Q. Is it difficult in your field, having dealt with
17 cases on appeal --

18 THE COURT: That won't work either.

19 MR. MORFORD: Objection.

20 THE COURT: Because we would have to have all
21 the appellate decisions.

22 Q. Do you have personal knowledge of having all the
23 traces --

24 MR. MORFORD: Objection.

25 THE COURT: The objection is sustained. Move

Colucci - Direct

1 on, Congressman.

2 Q. Did David Sugar, Jr. have the money to proceed?

3 A. No.

4 Q. Okay.

5 THE WITNESS: I knew I'd do that. Sorry,
6 Judge.

7 THE COURT: That's okay.

8 BY MR. TRAFICANT:

9 Q. Do you know if Mr. Sugar was eventually moved to a
10 halfway house?

11 A. Yes, he was.

12 Q. Are you familiar with anything involving that?

13 A. Other than the judge in Delaware ordered it.

14 Q. Did you make that request?

15 A. Yeah, yes.

16 Q. Did anyone ask you to make that request?

17 A. I can't recall specifically, but I do -- I would do
18 it at any rate because he just had a baby, and we wanted
19 him to be back near his home. Quite frankly, I hope the
20 Judge doesn't get mad, but they didn't want him there.
21 They were done with him. He did his jail time. The judge
22 ordered him up there.

23 Q. Do you know if my office was involved with that?

24 A. Yes. I believe I asked you to write a letter for
25 him.

Colucci - Direct

1 Q. Did you, in fact, know that I wrote a letter for him?

2 A. I think I've seen it in the file, sure.

3 Q. Have you ever been suspended by the State of Ohio for
4 any disciplinary action?

5 A. No.

6 Q. Would a one-year suspension be a significant
7 suspension in Ohio?

8 MR. MORFORD: Objection.

9 THE COURT: In his mind?

10 Q. In your mind, would a one-year suspension for an
11 attorney in Ohio be a significant suspension?

12 MR. MORFORD: Objection, because there is
13 nothing in this case about suspension as opposed to
14 probation.

15 THE COURT: In any event, you can answer that
16 question.

17 A. I think it would be. Any suspension would be
18 significant, in my view.

19 Q. Now, in your own mind, after having a one-year
20 suspension, if you were to have another, would that be
21 grounds for losing your license?

22 MR. MORFORD: Objection. Speculation.

23 THE COURT: Yeah, that is. You may be able
24 to qualify him if he has been on one of the commissions or
25 something like that.

Colucci - Direct

1 Q. Have you served on any panels or been involved in any
2 membership or organizations to --

3 A. No. The only way I would have any foundational
4 knowledge is I am a member of the Ohio State Bar
5 Association, and every month the OBAR report comes out, and
6 they always have all the suspension cases, and every lawyer
7 reads those.

8 Q. Are you very familiar with the suspension laws in the
9 State of Ohio?

10 A. Well, I am familiar with the Code of Professional
11 Responsibility, and by reading the cases you develop a
12 sense of what facts and what situations will result in the
13 Court acting.

14 Q. From the result of your knowledge and membership in
15 the Ohio Bar Association, would you have knowledge that a
16 second offense could, in fact, remove a person's law
17 license?

18 MR. MORFORD: Objection.

19 THE COURT: We have to sustain the objection.

20 Q. Do you know a man name Clarence Broad?

21 MR. MORFORD: Objection.

22 THE COURT: You can answer.

23 A. Well, yes.

24 Q. How did you come to meet Clarence Broad?

25 A. I had several phone conversations with him with

Colucci - Direct

1 regards to possibly representing him.

2 Q. As a result of those phone conversations, what did
3 you learn?

4 MR. MORFORD: Objection. Hearsay.

5 THE COURT: Sustained. That's hearsay.

6 Q. Were you asked to represent Mr. Broad?

7 A. You know, without violating any attorney-client
8 privilege, as a result of my conversations, my impression
9 was that he wanted to consult with me.

10 Q. What did he want to consult with you about?

11 A. Well --

12 MR. MORFORD: Objection. Hearsay.

13 THE COURT: Sustained.

14 Q. Were you ever his attorney?

15 A. Not formally, but he did try to consult with me, but
16 I never actually entered into an appearance for him in a
17 case.

18 Q. Did Mr. Broad want you to represent him?

19 A. Well, I think without getting into the specifics, my
20 impression was yes.

21 Q. Was it your impression that the attorney that was
22 representing him was not representing him fairly?

23 A. I had questions, but let me say it this way: Without
24 knowing all the facts I can't pass judgment on him, but I
25 had questions in my mind as a result of conversations had

Colucci - Direct

1 with the potential client.

2 Q. Did he want to get rid of his attorney?

3 A. Well, again, without getting into -- try to answer
4 it this way: I continued to have conversations with him,
5 and the subject matter -- I don't think he would be
6 talking with me if he wanted to stay -- there would be no
7 other reason for him to talk to me. I don't know him.

8 Q. Was it your impression that he was being pressured by
9 that attorney?

10 MR. MORFORD: Objection, unless he has
11 firsthand knowledge.

12 THE COURT: Right.

13 Q. Was it your impression that he had been --

14 MR. MORFORD: Objection.

15 THE COURT: You are asking it the same way.
16 You need to -- the witness can answer what he has personal
17 knowledge of, but he can't answer anything more than he
18 knows.

19 Q. Do you have personal knowledge of the state of mind
20 of Mr. Broad at or about the time he was talking to you?

21 A. Absolutely.

22 MR. MORFORD: Objection.

23 THE COURT: If we are going to get into a
24 state of mind issue, you can lay the foundation.

25 BY MR. TRAFICANT:

Colucci - Direct

1 Q. When Mr. Broad talked with you, was he nervous --

2 THE COURT: Don't testify for the other
3 person. Ask the questions.

4 Q. What was the tone of voice of Mr. Broad when you
5 conversed with him?

6 A. Again, I have to preface this for the record, without
7 revealing the contents --

8 THE COURT: Let me ask him, were you
9 representing him at the time that you are about to testify,
10 or not? Was this your client or not your client?

11 THE WITNESS: He consulted me to be his
12 lawyer.

13 THE COURT: Did you consider you were in a
14 lawyer-client relationship, or not?

15 THE WITNESS: Anytime someone consults with
16 me with regards to even potentially representing them I
17 like to err on the side of confidentiality and preserve
18 that.

19 THE COURT: All right. Go ahead.

20 BY MR. TRAFICANT:

21 Q. The question I asked, the tone, was it your
22 impression from the tone of conversation you had with Mr.
23 Broad that he was under pressure?

24 MR. MORFORD: Objection to the leading again.

25 THE COURT: Yeah.

Colucci - Direct

1 BY MR. TRAFICANT:

2 Q. What was the tone of conversation of Mr. Broad?

3 A. Frightened.

4 Q. What was your impression as to the reason for his
5 frightfulness?

6 A. The Government --

7 MR. MORFORD: Objection. Again, it is all
8 based on hearsay, Your Honor.

9 THE COURT: Appears to be.

10 MR. MORFORD: And I would ask that that
11 answer be stricken.

12 THE COURT: It will have to be until we have
13 some kind of out-of-court session so the jury doesn't have
14 to go through things until we decide there is some sort of
15 exception at this point.

16 Let's move along to something else this witness can
17 testify to.

18 BY MR. TRAFICANT:

19 Q. Had you ever met Clarence Broad before this?

20 A. No, I hadn't.

21 Q. Are you and I friends?

22 A. I would like to think so.

23 Q. Do I hug you?

24 A. The infamous bear hugs, yeah.

25 Q. Whom do I hug?

Colucci - Direct

- 1 A. Everybody, friends.
- 2 Q. You say friends?
- 3 A. Yeah.
- 4 Q. Have you ever been with me in public?
- 5 A. Yes.
- 6 Q. What do I do in public if I don't know anybody?
- 7 A. You talk to them.
- 8 Q. Do I touch?
- 9 A. I think you are that type. I think that's part of
10 your personality, yes.
- 11 Q. Do people back home fear me, Mark?
- 12 A. No.
- 13 Q. Have you ever known of anybody who feared me?
- 14 A. No, not at all.
- 15 Q. Has our office consulted with you over the years on
16 cases?
- 17 A. Yes, it has.
- 18 Q. Have you handled some minor cases?
- 19 A. Yes.
- 20 Q. Did you charge for some of those minor cases?
- 21 A. Well, the minor ones, if it involved elderly or
22 children, I would not charge. For example, if one of your
23 staff would say so-and-so called, has a problem with this
24 or that, and help them, then I would help them.
- 25 Q. Would it be pro bono?

Colucci - Direct

1 A. Yes.

2 Q. Were you ever asked to do pro bono for the Sugar
3 family?

4 A. No. In fact, just the opposite. I mean, no.

5 MR. TRAFICANT: No further questions at this
6 time.

7 THE COURT: Mr. Morford, before you begin, I
8 want to note that it is ten minutes before 12:00, and I
9 don't know about your examination.

10 MR. MORFORD: I have a little ways to go, and
11 if you want to take a lunch break I think I can probably
12 organize it.

13 THE COURT: I think it might be better so you
14 can proceed without interruption. We will see you back at
15 1:30, and enjoy yourself. It is pretty nice out today.
16 Remember your admonitions.

17 (Thereupon, a luncheon recess taken.)

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1 AFTERNOON SESSION, THURSDAY, MARCH 28, 2002 1:45 P.M.

2 THE COURT: Thank you, and be seated.

3 MR. MORFORD: Your Honor, before Mr. Colucci
4 takes the stand -- it is amazing what a good lunch hour
5 can do, I have no questions for Mr. Colucci.

6 THE COURT: All right. Thank you.

7 MR. TRAFICANT: I want to recall Mr. Colucci
8 right now.

9 THE COURT: Well, you concluded --

10 MR. TRAFICANT: No. I ask right now to call
11 Mr. Colucci as a witness.

12 THE COURT: Do you want to respond?

13 MR. MORFORD: Yes, Your Honor. The rules, as
14 I understand them, that are applied in every case, once you
15 tender your witness, you are done with your witness except
16 to go back and cover matters that were covered on cross.
17 Unless they talked about something over the lunch hour that
18 is new, there should be no further testimony under the
19 rules.

20 MR. TRAFICANT: These deal with matters that
21 delved into those issues that I want to be directed towards
22 Mr. Colucci.

23 THE COURT: No, Congressman. Call your next
24 witness.

25 MR. TRAFICANT: Then I want a side bar right

Tyson - Direct

1 now.

2 THE COURT: Call your next witness.

3 MR. TRAFICANT: I want to proffer for the

4 record --

5 THE COURT: You can proffer as soon as the

6 jury is gone for the day.

7 MR. TRAFICANT: Call Mr. Greg Tyson.

8 (Pause.)

9 THE COURT: Come right up, sir, right up

10 here.

11 THE WITNESS: How are you doing?

12 THE COURT: Sir, would you raise your right

13 hand?

14 GREGORY C. TYSON,

15 of lawful age, a witness called by the Defendant,

16 being first duly sworn, was examined

17 and testified as follows:

18 THE COURT: Take a seat, and there is a

19 microphone there. It is a big space. And if you will

20 speak up in a loud voice or use the mike, that will help

21 us. Thank you.

22 THE WITNESS: Okay. Thank you.

23 DIRECT EXAMINATION OF GREGORY C. TYSON

24 BY MR. TRAFICANT:

25 Q. Good afternoon, Greg.

Tyson - Direct

- 1 A. How are you doing, sir.
- 2 Q. Would you please give your full name, and spell your
- 3 last name for the jury?
- 4 A. Gregory C. Tyson. That's T-y-s-o-n.
- 5 Q. And what is your address, Mr. Tyson?
- 6 A. 424 Oakhill Avenue, Youngstown, Ohio.
- 7 Q. When did you receive your subpoena to be here?
- 8 A. Yesterday morning.
- 9 Q. Did the Government ever subpoena you?
- 10 A. Concerning this, no, just for Grand Jury testimony.
- 11 Q. You were subpoenaed by the Government for Grand Jury
- 12 testimony?
- 13 A. Yes, sir.
- 14 Q. Did you testify before the Grand Jury?
- 15 A. Yes, sir.
- 16 Q. How many times?
- 17 A. Once. Well, no, twice. One time was concerning a
- 18 matter on the Buccis, and the Government was doing an
- 19 investigation against them, and the other time was a matter
- 20 concerning you.
- 21 Q. Did you ever meet with the FBI?
- 22 A. Yeah.
- 23 Q. How many times?
- 24 A. Met with their field agent Perkins. I don't know if
- 25 he is FBI or IRS, one of them. And I met with the FBI

Tyson - Direct

1 agents, I had them at my office, I welcomed them in and
2 told them there is our files for 20 years of business, you
3 know, and sat down with them and had them go through all
4 the records.

5 Q. So there were two different meetings you had with the
6 FBI and IRS?

7 A. Two or three, something like that.

8 Q. Do you know if Agent Perkins is in this room? You're
9 allowed to stand up if you want.

10 A. I don't see him.

11 Q. Are any of the FBI agents that interviewed you in
12 this room?

13 A. I don't think so.

14 Q. What is your employment, sir?

15 A. Right now I am an ex-contractor recovering from
16 almost dying in November of last year.

17 Q. Pardon?

18 A. I say I almost died. I had blood clots go through
19 my heart, lungs, and I was in intensive care.

20 Q. How long ago was that?

21 A. November of last year.

22 THE COURT: Can everyone hear? Okay. You
23 might want to pick that mike up. You can take it out of
24 the holder, just sort of talk with it near you.

25 THE WITNESS: Is this better?

Tyson - Direct

1 THE COURT: Oh, yeah. Good.

2 BY MR. TRAFICANT:

3 Q. Are you afraid of being here?

4 A. No, sir.

5 Q. Are there any agencies you're afraid of?

6 A. Well, you have to have a healthy respect for the
7 Government.

8 Q. Are there any agencies that you're afraid of?

9 A. No, or I wouldn't want to say anything bad about some
10 people.

11 Q. How long have you known me?

12 A. Off and on maybe twenty years.

13 Q. In that twenty years, what was the nature of our
14 relationship?

15 A. Well, you were a Youngstown guy. I mean, you were a
16 legend. You were a sheriff, Congressman, football hero
17 before then, before I got, you know, going, and somebody
18 that you call a friend.

19 Q. And where did we meet?

20 A. Originally it was sheriff's banquets.

21 Q. As a candidate?

22 A. Well, you were already in the office, and I was just
23 getting into the construction business and, you know, I
24 ended up in one of those political gatherings and deals,
25 and hell, you started slapping me around like you knew me

Tyson - Direct

1 and started a relationship.

2 Q. Did I ever ask you to do any work for me after I met
3 you when I was a sheriff candidate?

4 A. Not as a sheriff so much. I mean, one time, when I
5 did some work at your farm.

6 Q. Was that when I was running for sheriff?

7 A. No. You were in Congress about 18 years, 15 years,
8 something like that.

9 Q. Did there come a time when you contacted me regarding
10 a problem?

11 A. Yes, sir.

12 Q. What was the problem you were having?

13 A. Well, I was getting racially put down by the banks in
14 Youngstown.

15 Q. Why do you say you were getting racially put down by
16 the banks?

17 A. Because if I was a white contractor with the amount
18 of business that I had and the amount of collateral that I
19 had, I could have got three or four times the bonding
20 capacity on jobs. I could have had three or four times
21 the credit rating that I was getting at the bank.

22 Q. Did you own a company at that time?

23 A. Yes.

24 Q. What was the name of your company?

25 A. Big G Construction Company.

Tyson - Direct

1 Q. Were you in the construction business when I was a
2 sheriff?

3 A. Yes. I was an apprentice with the bricklayers, and I
4 was just starting my company from, you know, a pickup type
5 company years ago. In fact, I got two apprenticeships, my
6 bricklayer's and my operating engineer's card, self-taught,
7 plus I am in the union.

8 Q. What union are you in?

9 A. Operating Local 66 and Bricklayers Local 8. I still
10 have both of those cards.

11 Q. Now, as an owner of Big G you are not in the union,
12 are you?

13 A. I kept my cards. I was proud of them. I earned
14 them. I didn't need them, but I kept them.

15 Q. When was the first time you contacted me for
16 significant help?

17 A. Well, I sent a letter to your office from an official
18 standpoint.

19 Q. And what did you request?

20 A. I requested assistance in securing our company the
21 financial aid we needed to go forward and become a viable
22 company to compete like other companies do, on the same
23 terms and basis that they had going for them.

24 Q. What, if anything, happened after that?

25 A. Well, a lot of things happened.

Tyson - Direct

1 Q. Well, how did you and I get to meet?

2 A. Once I contacted you, I was actually kind of
3 surprised, because normally when you write politicians a
4 letter, nothing happens.

5 Q. Well, what, if anything, happened?

6 A. Well, you had your aide get ahold of me and find out
7 the details of what we needed and why we were getting ahold
8 of you and what the problem was, because I had been working
9 with the City of Youngstown and several banks in the
10 community, trying to participate through the Community
11 Reinvestment Act to secure a decent loan and financing for
12 my construction company.

13 Q. Were you familiar with what the Community
14 Reinvestment Act was designed for?

15 A. Well, I don't really have all the details, but I know
16 if you have a bank, and you have a community and you have
17 citizens that put their incomes in, that they should be
18 eligible, that the bank should loan money to those citizens
19 first, and it was not happening for black businesses. I
20 mean, there was no black businesses in Youngstown getting
21 anything.

22 Q. As the owner of Big G Construction, did you have a
23 boss?

24 A. No. I was the boss.

25 Q. What was the status of most black companies?

Tyson - Direct

1 A. They were pickup-type companies. Some of them were
2 willing to work, but most of them guys were just little
3 shady companies that just put their name in the paper and
4 were willing to go sign up any deal with any white
5 contractor that were willing to give them a percentage.
6 Some of them didn't want the work.

7 Far and few between there was a guy, a craftsman,
8 that could do the work, but most of those guys were older
9 guys and couldn't do the paperwork, and had the wherewithal
10 to bid work and successfully complete it.

11 Q. Is it your testimony that the black contractors used
12 it as fronts?

13 A. They used it like -- excuse me -- like ladies of
14 prostitution. That's how they used it.

15 Q. Were you ever used liked that?

16 A. No, sir. I had some people that tried to use me like
17 that.

18 Q. Did you and I come to meet personally?

19 A. Yes, sir.

20 Q. What, if anything, did you say to me?

21 A. You have to refresh my memory.

22 Q. What were you talking about? What was your meeting
23 concerning?

24 A. Well, it was -- I think when -- you are talking
25 about the bank loan?

Tyson - Direct

1 Q. Is that when you called me? Is that what you called
2 me about?

3 A. Oh, yeah. We were in trouble. I mean, we had work.
4 We had contracts. We could not make our payrolls in a
5 timely fashion because, you know, even though we would get
6 jobs, be on the jobs, and do the work, you know, then we
7 would get into the old go old boy stuff. Guys wouldn't pay
8 us on time. We still had to make our payrolls, and we were
9 having a hard time financing ourselves, keeping ourselves
10 going.

11 Q. Did you explain all that to me?

12 A. Well, yeah. But I mean, you weren't no dummy. I
13 mean, you knew what was going on. That's what was nice
14 about the problem. You were looking to get to the brass
15 tacks.

16 Q. What, if anything, did I say to you?

17 MR. SMITH: Objection. Hearsay.

18 THE COURT: Right. You can rephrase that,
19 Congressman.

20 Q. What was your impression of your conversation with
21 me?

22 MR. SMITH: Objection. That's the same
23 question.

24 THE COURT: Okay. You know what the problem
25 is. He can't testify for you.

Tyson - Direct

1 BY MR. TRAFICANT:

2 Q. After your discussion -- after your conversation
3 with me, what, if anything, did you say back to me?

4 A. Well, going back, and I think what you are trying to
5 ask me is, you confronted me, and you said, "Look, Greg, I
6 like you."

7 MR. SMITH: Objection to anything the
8 Congressman said.

9 THE COURT: We can't -- he --

10 BY MR. TRAFICANT:

11 Q. What did you say to me?

12 A. What did I say to you?

13 Q. Yeah, after you first talked with me.

14 A. It was about the loan, you mean?

15 Q. Yeah.

16 A. Well, I answered your question, because you told me
17 that --

18 Q. What was the question?

19 A. Well, the question was, you says Greg, I have to know
20 --

21 MR. SMITH: Objection to anything the
22 Congressman said.

23 THE COURT: It is hard for witnesses, and it
24 is hard for the jury, but it goes back to the same
25 principle of hearsay, which is if somebody is under oath,

Tyson - Direct

1 subject to cross-examination, and you can see their
2 demeanor while they are testifying, it meets standards of
3 reliability the laws have established. So one person
4 cannot talk and say what somebody else could say.

5 Q. What was your impression of my concerns?

6 A. Well --

7 MR. SMITH: Your Honor, that has to be based
8 upon what the Congressman said.

9 MR. TRAFICANT: I am asking about his
10 impression, Your Honor, and I object to these continuing
11 objections.

12 THE COURT: Well, the objections are proper,
13 and you have successfully found ways to ask questions to
14 elicit testimony from witnesses now for quite a long time.
15 I know you can do it. Just take the time to think it
16 through, and you will be able to do it.

17 Q. Did we talk about your bank loan?

18 A. Yes, you did.

19 Q. Were there concerns about your bank loan?

20 A. You had a big concern.

21 Q. What was your impression of those concerns?

22 MR. SMITH: Objection. It is the same
23 objection.

24 THE COURT: You can answer that one. What
25 was your impression?

Tyson - Direct

1 THE WITNESS: Well, Your Honor, I mean, the
2 Congressman pulled me aside and says, "You contacted my
3 office" --

4 MR. SMITH: Objection to anything the
5 Congressman said.

6 BY MR. TRAFICANT:

7 Q. What was your impression of my concerns directed
8 towards you?

9 A. You wanted to make sure that I was 100 percent
10 legitimate, I was 100 percent committed to fulfill the
11 obligations of this loan. If you went to bat for us in
12 securing this loan, you wanted to make sure that I was a
13 sincere person and there wasn't no scam, no BS, nobody was
14 prompting me up on this thing. I could stand on my own
15 two feet, look you in the eye, and tell you I agreed to do
16 what we agreed to do.

17 Q. Did we discuss financing?

18 A. Yes, sir. You told me your office --

19 MR. SMITH: Objection to anything the
20 Congressman said.

21 Q. What was your impression of our discussion relative
22 to financing?

23 A. You were concerned that we were legitimate. You were
24 concerned from the standpoint of making a loan for a black
25 business, and you were concerned from the standpoint of

Tyson - Direct

1 putting your office at risk for backing up someone that all
2 the banks in the investors community had ostracized.

3 Q. Were you ostracized by the banks?

4 A. Certainly, because I was a black contractor.

5 Q. Did you convey that to me?

6 A. Yes.

7 Q. Were you asked at any point to prove your legitimacy?

8 A. Yes, sir.

9 Q. And how did you do that?

10 A. I took you out to my concrete plant. I brought in
11 contracts that showed you that I had with Big G. I showed
12 you my work force. I showed you the jobs I had in
13 progress. I gave you a track record and the history that
14 was verifiable, and I also had a record of work with bonded
15 jobs, completed on time successfully; backed up my
16 statements.

17 Q. At that time, did any minority -- were there hardly
18 any minority loans made in Youngstown?

19 THE COURT: You can answer.

20 A. Minuscule ones.

21 Q. Minuscule?

22 A. Minuscule.

23 Q. Would you say meaningless?

24 A. You could say that.

25 Q. How much money were you seeking?

Tyson - Direct

- 1 A. I think at the time I financed the concrete plant --
- 2 Q. What concrete plant?
- 3 A. Capital Ready Mix.
- 4 Q. Where was Capital Ready Mix located?
- 5 A. In Warren, Ohio.
- 6 Q. Who owned Capital Ready Mix?
- 7 A. I owned 51 percent of Capital Ready Mix.
- 8 Q. Who were the other partners?
- 9 A. Joe Sattarelle and 422 Limited Partnership.
- 10 Q. And who is the other partner?
- 11 A. Specifically I signed an agreement with Dan Bucci,
- 12 and his two brothers were partial owners of his share.
- 13 Q. And who are his two brothers?
- 14 A. The Bucci brothers, Tony and Bob.
- 15 Q. Did I go to bat to get your loan?
- 16 A. Yes, you did.
- 17 Q. Did you get a loan?
- 18 A. Yes, I did.
- 19 Q. Was it of significant value?
- 20 A. Yes, it was.
- 21 Q. Was it one of the first minority loans of significant
- 22 value in our valley?
- 23 A. It was monumental. Up until then -- I think I
- 24 broke the water.
- 25 Q. Were those part of the conversations that we shared?

Tyson - Direct

1 A. Yes, they were, because you were concerned that this
2 was a test case. I mean, a lot was riding on this.

3 Q. Is that why you took me to your plant and showed me
4 your contracts?

5 A. Yes, I did. In fact, we took pictures. We had the
6 trucks, the plant, you know. We were proud to show it. I
7 mean, we weren't a fly-by-night, fly-by-nights.

8 Q. Did I offer any advice?

9 A. Yeah. Get rid of the Buccis if I could.

10 Q. Did you take my advice?

11 A. I tried, but the bank wrote the loans wrong.

12 Q. By getting rid of the Buccis, what did you try and
13 do?

14 A. I offered the bank the collateral on my house and my
15 property that I had down at 551 Mahoning Avenue, plus my
16 existing revenue that I had in receivables from Big G, in
17 addition, over and above what the property cost to buy them
18 suckers out.

19 Q. What was the position of the bank?

20 A. The banks were idiots. They wanted to keep the
21 leases in place because it made my debt package look better
22 on paper.

23 Q. What happened when you first applied for the loan?

24 A. Well, we were turned down.

25 Q. After you contacted me, what happened?

Tyson - Direct

1 A. After I contacted you, then things happened. There
2 were some things I had to do, but like I had to hire a
3 consultant, Arnie Claybone, paid him a couple thousand to
4 prepare our paperwork, do five years of advanced pro
5 formas, show projections on the plant, debt structure, how
6 much money was needed to service the debt, the whole nine
7 yards.

8 I mean, it was stuff I didn't realize I needed when I
9 first applied for the loan. They didn't give a leg to
10 stand on, I guess, but I went the whole nine yards.

11 Q. Was it your impression that you would not have got
12 the loan unless you called me?

13 A. Without a doubt.

14 Q. You testified that you offered all of your
15 collateral. Why did you offer all of your collateral that
16 you had? For what purpose?

17 A. It would have been worth it to get them Buccis out of
18 my hair.

19 Q. Did you at any point ask the Buccis to sell out?

20 A. All the time.

21 Q. What prevented you from buying the Buccis out?

22 A. When I went to the bank to secure the money to buy
23 them out, they did not properly do the loan. They left the
24 leases in place. I says, "You guys are idiots." I said,
25 "The property is worth more than the lease." I said,

Tyson - Direct

1 "Sidley is buying concrete plants and companies all the
2 time. " I said, "We will have a buyer. " I said, "We will
3 own the plant as a serviceable concern, it will be worth
4 twice as much as this lease. " I said, "You are allowing
5 me to pay \$3,000 a month on a lease. " I said, "If you
6 loan me the money to buy the lease off, you will own the
7 property."

8 Q. At the time, did you have an agreement where you
9 could have bought the Buccis out for the lease amount?

10 A. We had a verbal agreement. If I paid the lease off
11 in full, I would have owned the place.

12 Q. What would that amount have been?

13 A. Approximately 120, \$125,000, depending on the amount
14 and the type of buyer.

15 Q. Would the banks approve of it.

16 A. They wanted the lease in place. They said it helps
17 your debt service, or whatever their stupid formula was.

18 Q. Did they ever ask for additional collateral you owned
19 with Big G?

20 A. Yeah. They asked for -- in order to make an
21 operating capital loan with Big G, they asked for a 50
22 percent -- well, they had a formula where they loaned me
23 50 percent on my total receivables. So I had \$415,000 at
24 the time, they gave me 50 percent of that, which was
25 \$200,000, and they would allow me 80 percent on the total

Tyson - Direct

1 amount of that 50 percent.

2 It was some convoluted formula, but that \$415,000, I
3 had over a million and-a-half to get that \$415. So Tony
4 was talking I needed him. I didn't need him. That jerk
5 needed me. I mean, he was disbarred.

6 Q. Now, were you familiar with my -- do you have
7 personal knowledge of my relationships with the Buccis?

8 A. Only that Danny had a farm across the street from
9 you, and that you got along with about anybody.

10 Q. Do you know or do you have knowledge if I was friends
11 with Tony or Robert Bucci?

12 A. Tony and Robert Bucci doesn't have a friend on this
13 earth.

14 Q. I didn't ask you that.

15 A. Well, you couldn't have been their friend.

16 Q. Did there come a meeting when there were problems
17 that developed between you and the Buccis?

18 A. Yes, sir, there did.

19 Q. Can you describe what transpired?

20 A. We were in -- this was before the loan was made.
21 The paperwork was in the chute to secure the loan, but the
22 Buccis were trying to bounce us out under their land
23 contract agreements and put me in jail, and default, and
24 steal all the property and plant that we invested in, and
25 fix the place up.

Tyson - Direct

1 Q. How much money had you invested in fixing up that
2 plant?

3 A. Joe must have put about sixty grand out of his
4 pocket, getting the plant and the trucks in shape, and I
5 had maybe 30 or 40,000, and with cleaning up the properties
6 and what I had done to restore the trucks and the overall
7 grounds of the property, the offices and equipment, and
8 stuff like that.

9 Q. When you are saying "Joe," who are you referring to?

10 A. Joe Sattarelle.

11 Q. Did anyone else offer you advice about doing business
12 with the Buccis?

13 MR. SMITH: Objection if it relates to other
14 people's statements with him.

15 THE COURT: Sustained.

16 BY MR. TRAFICANT:

17 Q. To the best of your knowledge, were you warned about
18 the Buccis by other people?

19 A. Yeah, everybody that knew them.

20 Q. To the best of your knowledge, were you warned by
21 Mr. Sattarelle?

22 MR. SMITH: Objection. And he is leading,
23 as well.

24 THE COURT: Sustained.

25 BY MR. TRAFICANT:

Tyson - Direct

1 Q. Who was your closest partner and friendship?

2 A. Joe Sattarelle.

3 Q. Did you converse often with Joe Sattarelle?

4 A. Yes.

5 Q. What did you and Joe talk about most of the time?

6 A. Well, we had to watch each other's back concerning
7 the Buccis.

8 Q. Did you ever offer each other advice?

9 A. All the time.

10 MR. SMITH: Objection to any advice
11 Sattarelle gave him.

12 THE COURT: Right.

13 A. We were partners. We talked, yes, certainly.

14 THE COURT: It is okay, Congressman. You
15 know how to ask questions of the witnesses, so just take
16 your time.

17 Q. Was it your impression that Mr. Sattarelle wanted you
18 to buy the Buccis out?

19 A. "Man," Joe said, "whatever you got to do" --

20 MR. SMITH: Objection to what Joe said.

21 Q. What was your impression, Mr. Tyson?

22 A. Yeah. It was our intent to buy them
23 son-of-a-bitches out. Excuse my language.

24 Q. Do you have immunity?

25 A. No, sir.

Tyson - Direct

1 Q. Were you subpoenaed as a Government witness?

2 A. Not originally. I was subpoenaed in the Grand Jury
3 testimony.

4 Q. Do you know if they called you as a witness in this
5 trial?

6 A. I don't think you did.

7 THE WITNESS: You didn't call me,
8 Mr. Morford, did you?

9 (Laughter.)

10 BY MR. TRAFICANT:

11 Q. Who subpoenaed you?

12 A. You did yesterday, for today.

13 Q. Would you be here if I hadn't subpoenaed you?

14 A. No, I wouldn't.

15 Q. Was Mr. Morford the man you talked to?

16 A. I talked to him on the Grand Jury.

17 Q. How were you treated at the Grand Jury?

18 MR. SMITH: Objection. Relevance.

19 THE COURT: Well, he can answer.

20 A. I got slapped around like I was some kind of a
21 criminal, which I didn't appreciate, because it was my
22 testimony that help send the Buccis to help get their butts
23 in the slammer.

24 Q. What else were you asked to do?

25 A. Well, they tried to subpoena me at the time that you

Tyson - Direct

1 were getting elected, during the primaries.

2 Q. Did you make any comments to them relative to that?

3 A. I told them I didn't appreciate that because it made
4 it look in the papers like I was some kind -- trying to
5 come against you in some type of a testimony. I didn't
6 appreciate that. An attorney even wrote a letter, and I
7 didn't appreciate that.

8 Q. Was it your impression it was timeliness around an
9 election?

10 MR. SMITH: Objection. Leading.

11 THE COURT: He can answer, but you should
12 stop telling him what he is going to say.

13 Now it is coming out of your mouth, not his, and they
14 can't consider it. Give the man a chance to answer
15 questions.

16 BY MR. TRAFICANT:

17 Q. What was your impression relative to the subpoena and
18 my election?

19 A. I questioned the timeliness of it.

20 Q. Why?

21 A. Because it happened a week before the election.

22 Q. Was there extensive news media coverage of that
23 process?

24 A. My name was in six-inch high print on the Vindicator.

25 Q. Now, after you had made that first loan, what was the

Tyson - Direct

1 reason for wanting to be in Warren, Ohio?

2 A. Well, that's where the plant was at, and that
3 expanded my market. I was a concrete manufacturer, and
4 there were only two in the whole State of Ohio who were
5 minorities. The other one up in Cleveland had run into
6 financial difficulty, so at the time I was probably the
7 only minority contractor as far as manufacturing concrete
8 is concerned in the State of Ohio. That might not be 100
9 percent accurate, but there is not a whole lot.

10 Q. It wasn't very easy for a minority businessman to get
11 by, was it?

12 A. No, because even if you did the job, then you had
13 some bureaucrat that wouldn't pay you. Even though your
14 job was done, and the job was done, they lost your pay
15 request, and they just had me sitting there.

16 Q. Did there come a time when you sought a second loan
17 from the bank?

18 A. Well, the second loan was all part of the first loan.
19 I mean, everything was -- they piecemealed the thing.
20 They never gave me the loan in a fashion where it was a
21 repayable setup. I mean, they did it like a bunch of
22 loan-sharks. The loan should have been structured long
23 term. I mean, I was paying back \$400,000 debt on capital
24 and \$400,000 debt on Big G on a four-year note. You go
25 down and buy a car somewhere -- the thing should have been

Tyson - Direct

1 set up with the SBA in a mini loan like it was set up with
2 other businesses and set out in a seven or nine-year term.
3 They were so interested in making their interest, they
4 didn't care about me.

5 Q. Did you at that time report anything to me?

6 A. Other than we had successfully gotten the loan. I
7 think I wrote a letter to your office and I notified the
8 city council, even the press, that, you know, we had
9 secured the loan and that we appreciated your efforts in
10 helping us. I mean, we acknowledged your office in leading
11 the way for securing a loan of that magnitude.

12 Q. How much rent were you paying on Capital Ready Mix?

13 A. It started at \$2,700 a month and had escalated per
14 year, another \$250 per year, four years, with a four-year
15 option.

16 Q. Four-year option to do what?

17 A. To resume the lease and continue.

18 Q. Were there any clauses to buy them out?

19 A. No. My attorney didn't put it in there, which it
20 should have been in writing. We only had the Buccis'
21 verbal, and at the time when we made our partnership, a lot
22 of things we did in good faith and found out later we
23 couldn't entrust the suckers.

24 Q. At some point did you really fall out?

25 A. Oh, yeah. I mean, right before that meeting where

Tyson - Direct

1 you sat down with us. I mean, they were trying to bounce
2 us out. I mean, they were trying to -- me and Joe had
3 turned that place into a show piece. All the trucks were
4 painted. The concrete plant was in full operation. The
5 lawns were manicured. The place was A-1, and they saw an
6 opportunity just to bite us off at the head, get us the
7 hell out of there, take over the place, and don't pay us
8 anything.

9 Q. Whom did you call?

10 A. I called you because it was in jeopardy after going
11 to bat and notifying you that we needed a loan and secured
12 a loan, we were in the process of losing the place right
13 before all the paperwork and everything could be taken care
14 of.

15 Q. After you called me what, if anything, happened?

16 A. Well, we sat down in a restaurant up in Canfield,
17 which wasn't too far from your house, and the Buccis were
18 there, I was there, and Joe was there. And you tried to
19 work it out like you do in arbitration with teachers and
20 unions, and you tried to explain to them two idiots there
21 was more involved than just their greed: You had your
22 Congressional office that couldn't be embarrassed, and you
23 had these two guys that put in all this money, and it was
24 not a fair deal.

25 You tried to explain to them, but them two are pigs.

Tyson - Direct

1 I mean, they don't care nothing about nobody else.

2 Q. Did that meeting turn in -- how did that meeting
3 evolve? What did it turn into?

4 A. Well, we were sitting there trying to have a
5 conversation, and Bob Bucci just out of the blue says, "I
6 ought to reach over there and smack you."

7 Q. What, if anything, did I do?

8 A. Well, you sat back, and you looked at my reaction.

9 Q. And what was your reaction?

10 A. I just told Bob, I says, "You are free to reach over
11 here, but I ain't going to guarantee you're ever going to
12 make it back."

13 Q. After that statement, did the meeting -- was the
14 meeting relocated?

15 A. Oh, yeah. We had to get out of the restaurant.
16 Everybody in the restaurant was looking now.

17 Q. Who suggested that?

18 A. Joe was embarrassed, I mean, and you said, "Hey,
19 fellows, we've got to go outside."

20 Q. Did we go outside?

21 A. Yeah. But then they started yelling and raising
22 their voices.

23 Q. Wait a minute. Did we go outside?

24 A. Yeah. We went outside.

25 Q. Who went outside?

Tyson - Direct

1 A. We made them two clowns walk in front of us.

2 Q. Whom did I exit with?

3 A. Well, you went with me and Joe.

4 Q. Now we got outside in the parking lot. What was
5 decided?

6 A. Well, they started getting loud and running their
7 mouths, and I mean, they were shouting, so we said, "We've
8 got to go somewhere where this ain't so public. " So we
9 hopped in our vehicles, and we headed down Route 11.

10 Q. Do you know where we exited on Route 11?

11 A. Yes. Yeah. There was an old restaurant that they
12 closed, and probably has since been demolished, as soon as
13 you get off 11 and Mahoning Avenue, right behind the
14 Goodyear Tire. There was an old restaurant up there, so we
15 -- I pulled my truck in there, and then Joe had his
16 Explorer, and them two were in their pickup, and we had all
17 the trucks in the lot.

18 We tried to get to the bottom of the thing.

19 Q. Whose truck was I in?

20 A. You were with me.

21 Q. Now, when we got there, did conversations ensue?

22 A. Oh, yeah, but you got these two hotshots, read my
23 lips, we don't need no deal. They are default. They are
24 out. I mean, they were real cocky, arrogant. I mean, you
25 could just strangle them, but you were calm. You told

Tyson - Direct

1 them, "Hey, guys, you've got to be reasonable about this.
2 You just can't take a couple guys and treat them like
3 this."

4 Q. What was your impression as to which side I was on?

5 A. You were in our corner, because the Buccis says, "We
6 don't need no deal. They are out. The hell with them. "
7 You told them, "It ain't going to happen. You guys are not
8 going to do that to these two men."

9 Q. Did they eventually leave?

10 A. Yeah, they left. They peeled out of the parking lot.
11 They thought they had us. They thought I couldn't get the
12 money, and they thought that they were going to steal the
13 property.

14 Q. Is that when the loan was secured, after that?

15 A. Shortly thereafter, yes, sir.

16 Q. Had you not secured that loan, would you have been
17 able to move out there?

18 A. Well, I was already there. I would have lost the
19 investment that we had in the plant and property. We had
20 contracts that were there. We wouldn't have been able to
21 fulfill them, and, you know, we would have had all our
22 investment stolen from us outright.

23 Q. When you made these loans with the bank did you still
24 have assets that were clearly your own without debt?

25 A. Yeah. My house was owned free and clear at the

Tyson - Direct

1 time.

2 Q. Okay.

3 A. The bank put a second mortgage on the building I
4 owned down at 551 Mahoning Avenue. It was 20,000 square
5 feet. They put a \$245,000 second mortgage on it.

6 Q. Who had the first mortgage?

7 A. Farmers National Bank.

8 Q. Was that property valuable enough to have two
9 mortgages like that?

10 A. At the time it was because there was rumors of
11 riverboat gambling bills being circulated, and the City of
12 Youngstown just spent \$3 million renovating the B&O
13 Restaurant, and the B&O Restaurant across the street was a
14 viable building. My building was industrial. It was also
15 certified under the light industrial specifications and
16 zoning, and I could put a concrete plant there if I needed
17 an additional plant to service contracts going forward,
18 plus the thing was an all-brick building. It could have
19 been converted by the city, who was also looking at buying
20 the property because they didn't know what they were doing
21 at the time. We bought Mr. Anthony's, the B&O and the
22 mayor was hot on that property at that time.

23 Q. So you still had a home free and clear?

24 A. Yes, sir.

25 Q. Now, at some point did you turn to the city -- at

Tyson - Direct

1 some point did you take any other action?

2 A. Down the road we had approximately \$900,000 in a debt
3 service that we had to pay back in four years like you
4 would go and buy a car. I mean, the thing was totally
5 ballooned out of shape. The banks were just using us, I
6 mean, as far as interest on the thing.

7 So we went to the City of Youngstown because we had
8 employees at the time that worked in the City of
9 Youngstown, and we were paying City of Youngstown income
10 taxes. They had a program which was a 108 fund for
11 businesses relocating within the city, and we applied for
12 that loan to refinance our existing debt we had with
13 Capital Ready Mix and Big G Construction, set it up in a
14 long-term structure, which we could pay and service our
15 debt, keep our employees, keep our contracts, and continue
16 our business without being strangled.

17 I was servicing probably \$22,000 a month in debt, and
18 under that program, the bank would have written off
19 \$600,000 of their debt. City of Youngstown would secure a
20 \$675,000 loan set up over a nine-year deal with working
21 capital.

22 So we had a million-three in debt, got it all wrote
23 down to \$674,000, all of which was approved, all of which
24 would have made me a viable company, in place in time to
25 participate on the \$44 million CCA prison.

Tyson - Direct

1 Then the City of Youngstown reneged on their promises
2 of loans which we relied on in our business.

3 Q. When you say they reneged, how did they renege?

4 A. They reneged because there had never been a black
5 business that participated in this loan program. This was
6 the 108 loan, which they had reserved for their own little
7 buddies. You had existing companies that didn't need
8 these type of loans that went out on Sulphur Springs Road,
9 got brand new offices, got their sites prepared for free.
10 They got their existing loans written off and written down
11 by the city all for the guarantee of having income, for the
12 income tax of locating the jobs there.

13 And every one of those loans that was approved, there
14 was 22 of those loans approved, and they had been doing it
15 for years, the only loan that ever had a problem was mine.

16 Q. Did you appeal to anybody for help?

17 A. We brought that to your attention, that somebody was
18 screwing us around on this 108 loan. You don't make a
19 deal, have people rely on this thing from a business
20 standpoint; we told all our suppliers that everything we
21 have is all being refinanced, we had a drop dead date of
22 when this was going to be financed, that date came and
23 went, so obviously that was screwing that deal up.

24 Q. Did you ever get notification of any change in the
25 status that --

Tyson - Direct

1 A. Never got a notification. That thing just faded away
2 like an old ghost. They strung us out for a
3 year-and-a-half after we signed the papers, and the money
4 was supposed to go -- in fact, the Vindicator put a big
5 pie on the front page how this minority has got this money,
6 and here it is, and it is all going here, and we never
7 received a dime of that money. They put it in the paper
8 like we got paid. They put it out on the street for our
9 suppliers that we got the money and we weren't paying our
10 suppliers.

11 Q. At some point was the city notified through
12 Washington that they could have made that loan?

13 A. The city played so many games, Congressman, I don't
14 know what was done. I know that the city did an
15 investigation on themselves to prevent that loan from
16 happening.

17 Q. So the city had an investigation of themselves?

18 A. Certainly. That's the only way they could stop the
19 loan. The loan was gone. It was guaranteed. It was
20 signed off. It was approved by Congress. It was announced
21 in the paper that you were awarded this loan. This is a
22 publicity letter that could be used for the purposes of
23 this loan to secure.

24 Q. Was the city also being investigated for minority
25 loans?

Tyson - Direct

1 A. They had some problems with their minority loans.

2 Q. Were they being investigated?

3 A. Yes, sir.

4 Q. Were you any of the loans that were part of that
5 investigation?

6 A. No, sir.

7 Q. Was there ever any black company that ever got a 108
8 loan in our valley?

9 A. No, sir. I would have been the first. I did get the
10 loan. I just never had it funded.

11 Q. You did get the loan --

12 A. I was approved by Congress.

13 Q. Did you get the loan after you talked to me?

14 A. After I brought it to your attention that we had a
15 problem, that with the loan, that you sent a letter that we
16 were approved but never were funded. But, no, there was
17 nothing that happened after that, because the city just
18 screwed that whole thing up.

19 Q. So the city never gave you the money?

20 A. Never gave us the money. They strung me out, the
21 bank, and caused us to go bankrupt.

22 Q. Had the city lived up to their agreement and made
23 that loan, would you still be in business?

24 A. Certainly I would have gone from a \$22,000 a month
25 debt to \$19,000 for the first year, and \$7,000 a month

Tyson - Direct

1 after that.

2 THE COURT: How much a month?

3 THE WITNESS: \$7,000.

4 Q. Was there any other concrete supplier in Warren?

5 A. Majority companies, yes, sir, not no blacks.

6 Q. Did you have an advantage as a black businessman?

7 A. I did if I wanted to operate strictly as a minority
8 company, but I didn't operate like that. I operated from a
9 company standpoint that our material and our service is as
10 good as anyone else's. You know, we didn't just
11 participate as a minority company.

12 I mean, I did work all over this state and in
13 Pennsylvania. I mean, I had minority certifications from
14 the Ohio Department of Natural Resources. I had
15 two-and-a-half million dollars in state prequalifications
16 with ODOT before I ever signed with the Buccis.

17 I mean, there was a statement made that I needed him.
18 That pig was disbarred at the time, you know. I did work
19 for Dunlap and Johnson here down in Brecksville on a \$10
20 million project on the BF Goodrich Research Center. In
21 fact, Jimmy Kreidler called me up because the contractors
22 in Cleveland were calling him and couldn't get a job. And
23 my excavation bid secured him on a ten-million-two job
24 because my bid was \$40,000 less than the best bid in
25 Cleveland, and they got it by less than \$2,000.

Tyson - Direct

1 Q. Did you complete it?

2 A. Yes.

3 Q. And did you complete it on time?

4 A. Yes, I did. I got another \$200,000 extra in jobs
5 because of my work was exemplary.

6 Q. What areas did your company work? Name the different
7 areas.

8 A. I put a \$250,000 waterline right down the City of
9 Canfield's main street. In fact, I redesigned a job
10 through my engineer because they had a guy that I knew was
11 totally inept at it, was going to have us cut Route 224,
12 the main artery of Canfield, off at night. So I had my guy
13 redesign the thing with bores on all the intersections, so
14 we installed the line and never stopped traffic.

15 Q. Did you finish it on time?

16 A. On time.

17 Q. Is Canfield a white community?

18 A. All white.

19 Q. Were you the low bidder?

20 A. I was the low bidder, and it was not a minority job,
21 either.

22 Q. What other work did you have?

23 A. I put on State Route 8 for that county there, we call
24 it Kenmore County. I put a waterline in for them. I put a
25 180-foot bore under Route 8 that their engineers said

Tyson - Direct

1 couldn't be done, and I said, "I've got a guy that can do
2 it."

3 I put waterlines in for the City of Youngstown, for
4 the City of Hubbard, Canfield. I did a million-dollar
5 sewer for the City of Warren. None of those are
6 set-asides.

7 Q. What do you mean by that?

8 A. Little jobs that the state sets aside for little mom
9 and pop companies that can't compete. We were a company.
10 I just happened to be a minority owner.

11 Q. Did you ever ask the bank take your collateral that
12 you had remaining in an effort to purchase the Buccis out?

13 A. Twice.

14 Q. What was the result of those requests?

15 A. They said no, we are leaving the leases in place.
16 Your debt structure is better that way.

17 Q. Was your business structure better that way?

18 A. Hell, no. Excuse me.

19 Q. Were you a legitimate minority businessman?

20 A. Yes, I was.

21 Q. Was you ever a front man for anybody?

22 A. Not on your life.

23 Q. Why did you enter such a bad deal with the Buccis?

24 A. The only reason I entered the deal with the Buccis,
25 for six months they chased me with their deal. I didn't

Tyson - Direct

1 want anything to do with them. But Joe eventually told me,
2 "Listen, you own 51 percent of the company, I own 24
3 percent of the company. We will have our attorneys draw
4 the paperwork up. We will keep an eye on these two worms."
5 You know, "Even though they are bad, we can watch them. "
6 He says, "You've got to be able to make money at this." He
7 says, "They have ODOT work. They are a blacktop company.
8 You are a concrete company. " I said, "It just makes too
9 much sense."

10 But I thought he was talking about human beings.
11 These guys are nothing but hogs. I mean, if you got a
12 goose that will lay golden eggs, one of those hogs will eat
13 them golden eggs and lay chicken soup. I mean, they are
14 just pigs.

15 Q. Was it ever your impression that I was trying to help
16 them hurt you?

17 A. No way.

18 Q. Was it your impression that I was trying to save your
19 company?

20 A. Yeah. You did everything you could.

21 Q. And when was that? About what time?

22 A. Well, we had the 108 in place. By the time I
23 notified you, the city had stretched me out for so long
24 that it was just too late.

25 Q. You could not service your debt, could you?

Tyson - Direct

1 A. Well, they had an agreement in place. It was to be
2 executed in May. The loans were supposed to take place and
3 the monies was to be transferred. A year-and-a-half later
4 nothing happened. In the meantime, they got it put out in
5 the press that we got the money. No other bank would deal
6 with us. Bank One's hands were tied, so they totally and
7 effectively strangled us out of business.

8 Q. Who strangled you out of business?

9 A. City of Youngstown.

10 Q. Isn't it a fact the City of Youngstown is more
11 concerned about the City of Youngstown than Warren?

12 A. I would say, yeah.

13 Q. Were you still going to maintain a presence in
14 Youngstown?

15 A. I was going to maintain a presence in both. The
16 other contractors that got to those politicians in
17 Youngstown stopped that loan. They didn't want a black
18 company that was already beating their brains in in the
19 construction business have a concrete plant in Warren and a
20 concrete plant in Youngstown.

21 Q. Did you already own property in Youngstown for a
22 concrete plant?

23 A. Yes, I did own two properties.

24 Q. Were any of those properties already suited or
25 partially suited for concrete activity?

Tyson - Direct

1 A. Well, we had a side agreement with the City of
2 Youngstown not to use my plant, my property at 551 Mahoning
3 Avenue. They would give us additional property on Albert
4 Street to use for installing the concrete plant, which was
5 even closer to where the new prison was going to go in.

6 Q. Well, explain the proximity of your property on
7 Mahoning Avenue to the central City of Youngstown.

8 A. It was right down in district town. My address was
9 551. It was directly across the street from a \$3 million
10 restaurant they just renovated and another \$2 million they
11 put in Saadey's place.

12 Q. So describe the area where they wanted to give you
13 land.

14 A. It was out on the east side of Youngstown in an
15 industrial place, ten acres, which had topsoil and sand
16 fill, so we could use it for construction purposes. And
17 they was also close to being located to that advantage of
18 the 7-11 interceptor, which was work coming up and the
19 highway expressway.

20 Q. Do you know who funded the 7-11 interceptor?

21 A. I think your office pushed that for Youngstown.

22 Q. Are you and I close friends, Greg?

23 A. I would say we are friends.

24 Q. Do we see each other very often?

25 A. No. You've got too much going on for me right now.

Tyson - Direct

1 Q. Was there ever a time I failed to respond to any of
2 your calls?

3 A. No. That's the one thing about -- that's why
4 everybody in Youngstown likes you, because you look a man
5 in the eye, shake their hand, and tell a man you are going
6 to do something, and you do it.

7 Q. Now, what approximate time was all these loans going
8 on?

9 A. Man, I am talking six, seven years ago, maybe more.

10 Q. Would you say '94, '95?

11 A. Somewhere around there. I think the first one was
12 '94. It might have been -- might have done some leg work
13 in '93.

14 Q. Did you do any work at the Traficant farm?

15 A. We did a little bit of cleanup for you. I think you
16 caught me at one of your fund-raisers and said, you know,
17 "One of these days I am going to get you out there and do a
18 little bit of work," which I blew it off, and I looked at
19 what you had, and I said, "Well, if I can use some used
20 stuff that you got it won't cost that much to do it."

21 And you showed me, there were some creeks that were
22 overrun. The place was in pretty bad shape when I looked
23 at it. I did work on farms in Canfield. I did work for
24 both of my insurance agents. They both own horse farms,
25 you know.

Tyson - Direct

1 Q. Did they pay you for that work?

2 A. They paid me. Now, Steve, he was in a wheelchair.
3 He was my bonding and insurance agent. So what we did is I
4 had one driver get a truckload -- he paid for the asphalt
5 and told me, "Guys, listen, we will go out, put Steve a
6 path in," and he bought us a whole big thing of chickens
7 and beer. And we had some -- Gary, who lived across the
8 street, we had probably about 15 guys donate some work and
9 put an asphalt path in for him. And Jim sent to Fannie, he
10 sent down a new steer loader, and had kind of a party.

11 Jim Hunt, he had me put concrete in his floor, and I
12 gave him a price, but he was my insurance agent. I had to
13 treat him halfway fairly.

14 Q. Did I pay you for the work you did at the farm?

15 A. Yeah, you paid me.

16 Q. How did I pay you?

17 A. Well, you got kind of mad at me at first, because
18 when you came out you saw what we did, and you said, "Man,
19 I can't pay for all that. You done way more than I asked
20 you to do. I only wanted you to do about \$500 worth of
21 work. "

22 That's what I told you that it would cost. And you
23 got agitated with me because I did more than what you asked
24 me to do.

25 Q. Why did you do more?

Tyson - Direct

1 A. Well, I already had the material and I already had
2 the men there, and, you know, they cleaned up a couple old
3 jobs, which they cleaned up ahead of time when they had
4 them scheduled. I was going to lay the men off anyway.

5 What they did that day, anything over, you know, it
6 was already paid for. I already had them paid on another
7 construction job. They weren't even on from a house work
8 because guys don't like to be paid 10 or 15 cents less for
9 house work. If we did something like that, I used my
10 union men, they got paid union rate for the higher jobs we
11 worked on.

12 Q. How did you get paid?

13 A. Well, you asked me how much I owed you. I said,
14 "This is the \$500 I told you, that I told you in the first
15 place," and you said, "Wait a minute."

16 MR. SMITH: Objection to anything the
17 Congressman said.

18 THE COURT: Right. We have to talk about
19 what you said. That's fine.

20 BY MR. TRAFICANT:

21 Q. Well, did you get paid?

22 A. Yes, I got paid.

23 Q. But you had done much more work than \$500, didn't
24 you?

25 A. No. It just looked that way. I mean, my guys were

Tyson - Direct

1 good.

2 Q. Did I offer you anything else in payment?

3 A. You bought a baby -- you said, "I've got to pay you
4 more."

5 MR. SMITH: Objection if he is lapsing into
6 something the Congressman said.

7 Q. What was your impression when you completed the work
8 relative to the amount of work you did over and above what
9 was expected?

10 A. To me it was worth what I told you in the first
11 place. I mean, the stuff was used material taken off of
12 other jobs. The men were already paid and charged on that
13 job anyway. And I would had to have taken the material
14 back to my shop, paid them to take it off, and would have
15 gotten kicked around and broken up. I couldn't have resold
16 it anyway.

17 Q. Well, what, if anything, did you see after our
18 conversation?

19 A. Well, you thanked me and the crew for the work that
20 we did, but you were upset because --

21 MR. SMITH: Objection to what the Congressman
22 said.

23 THE COURT: He didn't testify as to what the
24 Congressman said. He just said he was upset.

25 THE WITNESS: Shall I answer, Your Honor?

Tyson - Direct

1 MR. TRAFICANT: Well, I was upset --

2 THE COURT: You can stop when you said he was
3 upset. You can't say what he did, and you didn't, so it
4 is okay. Objection is overruled.

5 Q. While I was upset, did I make you any further offer
6 of payment?

7 A. Yeah. You said you didn't have any more money --

8 THE COURT: You can't talk about what he said,
9 so I think you are going to have to move on, Congressman.

10 Q. What was the additional payments I attempted to make?

11 A. You tried to pay me with your horse.

12 Q. What kind of horse was it?

13 A. Black stallion.

14 Q. How would you describe it?

15 A. Beautiful animal.

16 Q. Did you want the horse?

17 A. Not really, because I didn't have anywhere to put him
18 at the time.

19 Q. Did you say no at the time?

20 A. I said it ain't necessary, you know. Pay me what I
21 told you, and that's it.

22 Q. Was there ever a time later when you communicated to
23 me about maybe taking the horse?

24 A. Well, we went round and round with that stupid horse
25 a little bit, and then you says, "Listen, I" --

Tyson - Direct

1 THE COURT: No, not what he said; what you
2 said, did, saw.

3 A. You wanted some more work done, and I looked at the
4 additional work that you wanted done. And you said all
5 you have to pay me was --

6 MR. SMITH: Objection to what the Congressman
7 said.

8 THE COURT: Sustained.

9 A. The horse is all you have to pay me. I looked at the
10 work. I knew in my mind what I needed to do. I said,
11 "Yeah, I will take the stupid horse," and we did a little
12 bit of work.

13 Q. Did you make any plans to house the horse?

14 A. Well, I had ten acres up at Capital Ready Mix. I had
15 the place that, you know, those -- what do you call those
16 fences with the wood on them. It was all landscaped. In
17 the back beyond the lake that I had I had another five
18 acres, and I took my dozers up there, and I cleared a lot
19 of that area off.

20 Q. Did you make any inquiries whether or not where you'd
21 keep the horse?

22 A. Well, when I grew up I kept horses before, when I
23 grew up.

24 Q. Did you ever take anybody out to see the horse?

25 A. Not really. My dad stopped in and saw him.

Tyson - Direct

1 Q. What was your dad's impression of the horse?

2 A. He couldn't believe how pretty that horse was.

3 Q. Do you know the difference between a stallion and a
4 gelding?

5 A. Yeah. A gelding, you cut their nuts off.

6 Q. Did he have testicles?

7 A. He had them on.

8 Q. Was he a big horse?

9 A. Yes, sir. He was a stud.

10 Q. When you got your first loan, did you lease the car?

11 A. I traded it in, my old Cadillac. The guy gave me
12 1,500 or 2,500 cash, and I leased one. That's when these
13 leases became popular. I wanted to get a four-wheel drive
14 SUV at the time, but they didn't have anything there, so I
15 got a Caddy. I used it as part of business because in my
16 dealings I had to talk to contractors, big contractors that
17 do 50, \$60 million worth of business, and I couldn't be
18 pulling up in a pickup with my door flapping off.

19 Q. What color was it?

20 A. Got a black car that matched my black trucks.

21 Q. Was it your impression that the lapse of time on the
22 loan caused you to go bankrupt?

23 A. I had signed agreements that had an expiration date.
24 Everything was set up to be executed within May or June,
25 and there was no provisions for a year-and-a-half later,

Tyson - Direct

1 for the same loan that I signed that I executed in May or
2 June. It would be like you did -- I can't explain it. I
3 haven't seen anything like that since they signed treaties
4 with the Indians, property west of the Mississippi.

5 Q. Do you feel like you were treated that way?

6 A. I was set up.

7 Q. Did any other company, to your knowledge, ever have
8 that type of a bad historical situation with the city?

9 A. No, one.

10 Q. At some point were you contacted by me about that
11 horse?

12 A. You probably brought it up, but I probably didn't
13 want to talk to you about it.

14 Q. Did I ever send you a bill for rent?

15 A. No, you didn't.

16 Q. I now want to show you something, Greg, Government's
17 Exhibit 3-6. Can you tell me what that is?

18 A. It looks like the Bank One sheet that explained some
19 of our loans, one of the loans you had.

20 MR. TRAFICANT: I should show this to the
21 Judge first.

22 THE COURT: It is okay. I have it in the
23 exhibit book.

24 MR. TRAFICANT: Can I put this on the screen?

25 THE COURT: Yes.

Tyson - Direct

1 MR. TRAFICANT: You'd think I learned by now.

2 MR. MORFORD: I will get it.

3 MR. TRAFICANT: You have to let it warm up
4 awhile, Matthew?

5 MR. KALL: Ten seconds should do it.

6 BY MR. TRAFICANT:

7 Q. What was the date on that letter?

8 A. May 12th -- looks like -- is that a 4 or 6? I can't
9 see it.

10 THE COURT: Here is a closer one, and you can
11 see it better.

12 THE WITNESS: Thank you.

13 MR. TRAFICANT: Thank you, Your Honor.

14 A. That's May 12th of 1994.

15 Q. And that's a letter to you?

16 A. Yeah, because it is on Bank One stationery. I think
17 it is theirs, the stamp. It is from the bank to me.

18 Q. Do you see where it says "purpose"?

19 A. Yeah.

20 Q. Under that it says, "Facility No. 1." Read the first
21 three starting with "type, amount, and purpose."

22 A. It says, "Commercial real estate mortgage loan;
23 amount, \$245,000; refinance real estate housing, Big G,
24 located at 551 Mahoning Avenue, Youngstown Ohio, 9.75
25 percent fixed rate."

Tyson - Direct

1 Q. Now, read where it says, "First mortgage on real
2 estate" following "collateral."

3 A. "Guarantors: Gregory C. Tyson, Capital Ready Mix
4 Supply Co., Incorporated."

5 Do you want me to keep reading?

6 Q. What does it say about the facility and the amount?

7 A. "Equipment term loan." Additional \$60,000, and
8 refinance construction equipment and vehicles. And that
9 was under "assets."

10 Q. Fine. I now want to show you Government's Exhibit
11 3-8, parenthesis 8.

12 MR. TRAFICANT: Do you want to see?

13 MR. SMITH: I have it.

14 Q. 3-8(8). Can you see it? I am going to put it on the
15 screen, 3-8(8).

16 THE COURT: I will come and look over your
17 shoulder if I need to.

18 BY MR. TRAFICANT:

19 Q. Where is that bill from?

20 A. That's for materials.

21 Q. Who picked it up?

22 A. Carol Kent.

23 Q. Who is it sold to?

24 A. It went to your property.

25 Q. Was that part of the deal?

Tyson - Direct

1 A. Yes, sir.

2 Q. Do you know where the Government got these materials?

3 A. Might have got them at my office, I think.

4 Q. Did they subpoena documents from your office?

5 A. I think they sent a letter that they wanted to check
6 records. I told them whatever you want to look at.

7 Q. Government's Exhibit 7-7.

8 MR. TRAFICANT: Your Honor, do you want to
9 take a break now at 3:00, or when do you want a break?

10 THE COURT: Well, we usually go a little
11 longer than this.

12 MR. TRAFICANT: Okay.

13 Q. Government's Exhibit 3-7, Greg.

14 A. Okay. Go back?

15 Q. Yeah.

16 A. Okay.

17 Q. What is that?

18 A. Well, I had a little problem, we put your stuff in.
19 The pump went out at the house.

20 Q. And what, if anything, did you do about it?

21 A. Well, I got a call that you didn't have any water and
22 you couldn't water the horses.

23 Q. Did we try and hide that agreement?

24 A. No. I had that down in my office. I mean, I had it.
25 It was a warranty. I bought it from one of my suppliers.

Tyson - Direct

1 I vouched for it, for everything that was on there.

2 Q. Do you know how much that pump cost?

3 A. I am not sure. Somewhere between \$139 and \$179
4 sounds about what they are worth, could have been a little
5 more or less. It might be more now, but then that's about
6 what it cost.

7 Q. Did I pay you for that?

8 A. Yeah. You paid me after John put it in.

9 Q. I want you to now look at Government's Exhibit 3-4.
10 Can you find that? It is dated April 7th, 1994.

11 THE COURT: It will be toward the front.
12 Going back the other way. It is the fourth one in your
13 book.

14 Q. The Government exhibits are tricky.

15 A. I got it.

16 THE COURT: Actually, they are just going in
17 sequence, Congressman.

18 MR. TRAFICANT: A lot neater than mine.

19 BY MR. TRAFICANT:

20 Q. Is that the letter that you sent me?

21 A. I think it is two pages though, because I know I
22 would have copied everybody on the thing.

23 THE COURT: On the back -- just turn the
24 whole sheet over.

25 A. Okay. Yes, sir.

Tyson - Direct

1 Q. You thanked everybody that helped you, didn't you?

2 A. Sure. I tried to give everybody credit.

3 Q. So a lot of people tried to help you, didn't they?

4 A. Well, once we were in, everybody that was involved,
5 you know, was part of this thing, whether it succeeded or
6 failed.

7 Q. Who gave you the most help on this job, Greg?

8 A. You spearheaded. Otherwise it wouldn't have got
9 done.

10 Q. I want you now to look at 3-2.

11 MR. TRAFICANT: Bernard, there is a
12 parenthesis or something on that, or -- 3-2, so it would
13 be going back towards the front, Greg.

14 A. Okay. I got you.

15 Q. Are you familiar with that letter?

16 A. Yeah. I got a copy of this.

17 Q. And who is that letter from, and who is it to?

18 A. It looks like you signed it. It went to Mike
19 Brennan, the bank president, Bank One.

20 Q. And what was it in relation to?

21 A. Concerning our company and assistance.

22 Q. I want you to read, starting with the second
23 paragraph, "Mr. Tyson has contacted."

24 A. "Mr. Tyson has contacted me and Henry, and has
25 advised both of us that the bank has sloughed him off. He

Tyson - Direct

1 was turned over to someone by the name of Perry with a last
2 name that he cannot spell.

3 "Mr. Tyson is definitely an astute businessman. He
4 needs financing for his new cement company in Warren. He
5 already has a contract with the City of Warren.

6 "If you are going to deny any financing to him, we
7 would appreciate knowing why he is not qualified to obtain
8 the financing he needs.

9 "Bank One must understand that we cannot just finance
10 new businesses that come into the 17th Congressional
11 District. Greg Tyson has been in business, and he needs
12 some financial assistance. Why can't we help him?

13 "I am hoping that you will look into this matter and
14 advise both Henry and I as to why our referral to Bank One
15 has ended up in vain.

16 "Thank you kindly for your continued cooperation.
17 Congressman James A. Traficant. "

18 Q. Did you ever see that building?

19 A. Looks like your old farmhouse.

20 Q. Who is this a picture of, Exhibit 3-1?

21 A. That's me, you and Joe, Buddy. That's when them
22 trucks came. We had them painted up right to the max.

23 Q. Were those old trucks?

24 A. Yeah, because we couldn't afford one, I had seven
25 trucks for the cost of what one new mixer was. Joe put

Tyson - Cross

1 them through his shop, and my guy painted them. We worked
2 on them, worked our butts off to get them looking like
3 that.

4 Q. Do you have knowledge of how the Buccis acquired that
5 property?

6 A. Just rumors.

7 Q. Did the Buccis try and use you as a front man?

8 A. They tried.

9 Q. Did you trust the Buccis?

10 A. No.

11 Q. Do you have any company starting up now?

12 A. Well, while I was in bankruptcy I had a smaller
13 company with -- when I got injured I haven't been doing
14 very much.

15 Q. Is it your plan to eventually try and restart, Greg?

16 A. I just want to get my health back right now.

17 MR. TRAFICANT: No further questions at this
18 time.

19 THE COURT: Okay. We will take our
20 afternoon break.

21 (Thereupon, a recess was taken.)

22 THE COURT: Thank you. Be seated. You are
23 still under oath.

24 CROSS-EXAMINATION OF GREGORY C. TYSON

25 BY MR. SMITH:

Tyson - Cross

1 Q. Mr. Tyson, as you sit here today, you think very,
2 very highly of the Congressman. Is that right?

3 A. Yes, sir.

4 Q. In fact, as you described it on your direct
5 examination, is it true in the last ten years of your
6 professional life that Congressman Traficant, you believe,
7 is really the only person in the position of authority that
8 has really gone to bat for you in the last ten years or so
9 of your professional life?

10 A. No. I wouldn't say that.

11 Q. You think he is the one that has done the most for
12 you in the last ten years of your professional life?

13 A. I had people help me all through my career in our
14 business.

15 Q. But since the Bank One loan situation arose, do you
16 think that the Congressman has been the one that has done
17 the most to help you in your professional life?

18 A. Well, no. He just helped on one loan. In my
19 professional life, I did work for 25 years in construction.

20 Q. I ask in the last seven, eight, nine years, in the
21 time since the Bank One loan, during that period, was he
22 the one that has helped you the most?

23 A. The Congressman helped secure a loan that we could
24 not secure due to the prejudicial situation of the banks at
25 that time.

Tyson - Cross

1 Q. He would certainly be the highest ranking government
2 official to help you in a meaningful way in the last
3 decade. Is that right?

4 A. I would say yes.

5 Q. And you feel personal loyalty to him as you sit here
6 today?

7 A. Well, anyone that has been -- that has assisted in
8 that manner, I certainly would have respect for anyone like
9 that.

10 Q. Now, when you testified before the Grand Jury, you
11 accused the Government of exercising political timing in
12 subpoenaing you to the Grand Jury. Is that right?

13 A. I didn't accuse anyone. I just questioned the timing
14 of it. And in fact, my attorney questioned the timing of
15 it. He brought it to my attention.

16 THE COURT: If you could speak a little
17 louder, Mr. Tyson.

18 THE WITNESS: Is this better, Your Honor?

19 THE COURT: Yes.

20 Thank you.

21 THE WITNESS: In fact, I think my attorney
22 issued a letter. You should have it in your file.

23 Q. And the question you had was whether or not the
24 timing of your subpoena was politically motivated. Is that
25 right?

Tyson - Cross

1 A. Without question, the timing of that subpoena was
2 politically motivated.

3 Q. That was your opinion, correct?

4 A. In my opinion, yes.

5 Q. Now, in fact, your Grand Jury appearance actually
6 happened several weeks after the primary occurred. Is that
7 right?

8 A. My attorney scheduled that time after the primary,
9 yes --

10 Q. Okay.

11 A. -- because I --

12 Q. In fact, your attorney had requested the Government
13 to postpone your Grand Jury appearance, and the Government
14 agreed to postpone it. Is that right?

15 A. My attorney notified your office that I had a prior
16 engagement. We would have been there because it was
17 mandatory for us to attend, and you did postpone it.

18 Q. You have answered my question.

19 A. But at the time --

20 MR. TRAFICANT: Objection. Let him finish
21 his statement.

22 THE COURT: Goodness.

23 A. But at the time in the Vindicator my name was --

24 THE COURT: Mr. Tyson, hold on just a second.
25 We have so many people talking. We have a court reporter

Tyson - Cross

1 who has to write it all down at the same time.

2 THE WITNESS: Whatever you want to do, Your
3 Honor.

4 THE COURT: Just so you understand. That's
5 why we can't talk on top of each other, because we are
6 trying to make an accurate record. I know it is not like
7 being able to just have conversations.

8 There was an objection posed by the Congressman, and
9 I need to respond to the Congressman.

10 MR. TRAFICANT: I object because he did not
11 conclude his statement, and Mr. Smith attempted to cut him
12 off from completing his statement. So for the record, I
13 make an objection that that not happen, and when he makes a
14 statement, he be allowed to completely finish his
15 statement.

16 THE COURT: That is a very good rule which we
17 try to follow all the time, and the objection is well
18 taken. We will go back and start again, read the question
19 again. I will have the court reporter read it, and then
20 you listen to the question, and it is the witness the jury
21 has to listen to. All this side stuff gets in their way of
22 hearing. So now he has to go off the record to read it to
23 us. He is going to ask the question, and you can answer
24 it.

25 (Record read.)

Tyson - Cross

1 THE COURT: I guess you did answer the
2 question. You can ask the next question and go forward.

3 Everybody kind of relax. It is late in the
4 afternoon. We want the evidence to be heard by the jury.
5 You state your question, you listen to it and answer it.
6 Thank you.

7 BY MR. SMITH:

8 Q. You understand a Grand Jury subpoena to be a document
9 that is mandatory requiring the witness' appearance. Is
10 that right?

11 A. Yes, sir.

12 Q. And the Government agreed to waive your appearance on
13 the date that had been set and to postpone it based upon
14 your attorney's request. Is that right?

15 A. My attorney filed a request. You granted the
16 request.

17 Q. Okay. And you actually then appeared before the
18 Grand Jury several weeks after the primary had already
19 concluded. Is that right?

20 A. Correct.

21 Q. Now, you have never worked in the field of criminal
22 investigation yourself, have you?

23 A. No, sir.

24 Q. All right. And so as you sat in the Grand Jury that
25 day, you did not have any personal knowledge as to how long

Tyson - Cross

1 the investigation had been going on before you appeared,
2 did you?

3 A. Only a guess.

4 Q. You didn't know what other witnesses had been called,
5 did you?

6 A. It wasn't my concern.

7 Q. You have no knowledge of the factors that go into the
8 decision-making process as to when a witness is called
9 before the Grand Jury or not, do you?

10 A. I just have evidence of my name being splashed on the
11 paper right before the primary, right before I was supposed
12 to go to the Grand Jury. So how does anybody know that I
13 am going to the Grand Jury, when it is supposed to be
14 private and confidential, before I go?

15 Q. But you don't have any knowledge of why the
16 Government in a criminal investigation would call a
17 particular witness before a Grand Jury at any particular
18 time, do you?

19 A. I don't know what you are talking about.

20 Q. You don't know why the Government would subpoena you
21 for March of 2000 as opposed to any other time, do you?

22 A. Sure, to affect an election.

23 Q. That's your opinion, correct?

24 A. Correct.

25 Q. But you don't have knowledge of what the Government

Tyson - Cross

1 is thinking?

2 A. I have personal knowledge of my name being smeared in
3 the paper and insinuations being made at the time of the
4 election.

5 Q. And my question was, you do not have personal
6 knowledge of what the Government was thinking when it
7 issued that subpoena?

8 A. I certainly don't know what you're thinking.

9 Q. Now, the congressmen, they are on two-year election
10 cycles, correct?

11 A. Yes.

12 Q. And there was a November 2000 general election in
13 which the Congressman stood for reelection; is that right?

14 A. That would be correct.

15 Q. And then there was a March 2000 primary. Is that
16 right?

17 A. I think in May, aren't they?

18 Q. Well, it was in March of that year, wasn't it?

19 A. I don't remember.

20 MR. TRAFICANT: Objection. If the witness
21 doesn't know --

22 THE COURT: He answered it. He says he
23 doesn't know.

24 A. Whatever day it was, it was a week before the
25 election.

Tyson - Cross

1 Q. Okay.

2 A. And you know what, that's supposed to be
3 confidential.

4 THE COURT: Wait, wait, wait.

5 THE WITNESS: Sorry, Your Honor.

6 THE COURT: You have to answer his questions.
7 Then you may have other questions put to you at some time,
8 but you have to answer his questions so it is orderly.

9 Q. Would you agree, your Grand Jury appearance was on
10 March 29th, 2000?

11 A. Is that the time I was there?

12 Q. If I showed you the cover page of your Grand Jury
13 transcript --

14 A. If you have the record --

15 Q. -- would that refresh your recollection?

16 A. If you have the time I was there, that time and day,
17 I was there that day whatever time I signed in.

18 Q. Showing you Government's Exhibit 1000, if you would
19 look at that document up in the upper right, and tell us if
20 that refreshes your recollection as to when you testified
21 before the Grand Jury.

22 A. If this is the date you have on record, then I agree
23 this is the day I was there.

24 Q. All right. And the date on there is March 29th,
25 2000. Is that right?

Tyson - Cross

1 A. Yes, it is.

2 Q. And that was several weeks after the primary,
3 correct?

4 A. Yes, it is.

5 Q. So the primary then was in early March of 2000,
6 correct?

7 A. I don't know when the primary was. It was after the
8 fact of this.

9 Q. Well, you testified in the Grand Jury after the
10 primary. You agree with that, correct?

11 A. Yes.

12 Q. So when a congressman is on a two-year election cycle
13 with a primary six months before, then isn't it reasonable
14 that an investigation of any length might bump into the
15 election cycle?

16 A. No.

17 Q. Sir, when you came before the Grand Jury, you were
18 upset with the City of Youngstown, correct?

19 A. The City of Youngstown screwed me into the ground.

20 Q. And you felt that way when you came to the Grand
21 Jury, correct?

22 A. That's not how I felt. The facts will bear me out.
23 I had signed agreements that weren't executed. I relied on
24 their information. I relied on their agreements. They
25 shook my hand and they lied.

Tyson - Cross

1 Q. You were not happy with the federal government the
2 day you had to appear before the Grand Jury, correct?

3 A. You didn't investigate their wrongdoing, no.

4 Q. And you were not inclined to answer questions before
5 the Grand Jury until you were immunized, correct?

6 A. I could have invoked my Fifth, but I didn't.

7 Q. Sir, isn't it a fact that you were immunized when you
8 testified before the federal Grand Jury?

9 A. I was offered immunity against the Buccis, and then I
10 was compelled to testify against Congressman Traficant
11 because I told you he was a friend of ours and didn't think
12 he had done anything wrong.

13 Q. Sir, isn't it true that in the Grand Jury you
14 lawfully invoked your Fifth Amendment privilege and you
15 were immunized?

16 A. That's against the Buccis, and I testified with
17 Morford, who was the second prosecutor, and I was compelled
18 to testify. Now, there is a difference, isn't there?

19 Q. Showing you pages 3, 4, and 5 of your Grand Jury
20 testimony, March 29th of 2000, would you please briefly
21 review these three pages, and tell us if you were immunized
22 in your Grand Jury testimony after you lawfully invoked
23 your Fifth Amendment privilege?

24 A. Well, my attorney isn't here to interpret this stuff
25 for me.

Tyson - Cross

1 Q. Could you please read it?

2 THE COURT: Not out loud, just to yourself.

3 A. It says here, "I refuse to testify and provide you
4 other information." That means I was compelled to give the
5 testimony.

6 Q. Under immunity, correct?

7 A. Well, I guess immunity for my compulsion, but it was
8 not immunity where you get a deal.

9 Q. Sir --

10 THE WITNESS: Am I saying that wrong, Your
11 Honor? That's my understanding.

12 THE COURT: Well, you just talk from what you
13 know and what your understanding is. It is up to the
14 lawyers to ask you questions. Okay? Just do what you're
15 doing. That's fine.

16 THE WITNESS: Okay.

17 BY MR. SMITH:

18 Q. Isn't it a fact that the foreperson read you a court
19 order signed by Judge Nugent of the Northern District of
20 Ohio immunizing you in your Grand Jury testimony?

21 A. As I understand it, I was compelled to testify. Any
22 testimony that I gave under that compulsion order gave me
23 immunity because I was compelled to testify, you know.

24 Now, the other agreement I freely gave to the
25 prosecutors because they were investigating the Buccis, who

Tyson - Cross

1 committed fraud against minority contractors, and they were
2 investigating them on that purpose. So I have no problems
3 with that.

4 This one, I was compelled to testify because you
5 asked me to testify against the Congressman, which didn't
6 want to be testifying against the Congressman.

7 Q. All right.

8 A. And I was given immunity for whatever statements you
9 made me say as part of the testimony to answer truthfully
10 to you.

11 Q. And that immunity under the terms of Judge Nugent's
12 order extended not only to the Grand Jury appearance, but
13 it extended to any other Court action arising out of the
14 Grand Jury proceedings, such as your testimony today,
15 right?

16 A. Well, if that's true, I'm glad to hear that.

17 Q. Didn't the order say, page 5?

18 A. I didn't read it that well, but if I am covered under
19 immunity, fine. I am happy to hear it.

20 Q. Page 5, lines 8 to 15, didn't the foreperson read
21 this portion: "Now, therefore it is ordered pursuant to 18
22 U.S.C., Section 6002, that the said Gregory Tyson give
23 testimony or provide other information which he refuses to
24 give or provide on the basis of his privilege against
25 self-incrimination about all matters he may be interrogated

Tyson - Cross

1 before said Grand Jury and before any court action arising
2 out of the said Grand Jury proceedings. "

3 Isn't that a part of the order that was read to you
4 in the Grand Jury?

5 A. It may well have been, sir. I'm getting your
6 understanding of it. So I'm happy to hear I still got
7 immunity.

8 Q. Now, with respect to the loan with Bank One,
9 initially, it is correct that you applied to Bank One for
10 the loan, and you were turned down, right?

11 A. The City of Youngstown was trying to work with the
12 banks in Youngstown, and Dollar Bank had just went belly
13 up, and National City Bank was taking it up. I was told to
14 go through Bank One.

15 Even though I went through all the changes, I was
16 turned down.

17 Q. All right. And after you were turned down, you
18 requested the Congressman's assistance with Bank One since
19 you could get the financing you felt you needed, right?

20 A. Well, I was a little bit upset because Russia just
21 got a \$29 billion dollar loan and defaulted, and I am
22 sitting there in Youngstown with union employees, paying
23 union wages, and a contract with Youngstown, and I called
24 his office to see what the hell he could do about that.

25 Q. All right. And you did receive help from the

Tyson - Cross

1 Congressman in intervening with Bank One. Is that right?

2 A. Yes, we did.

3 Q. In fact, after the Congressman took action, you got a
4 meeting with Mr. Al Matasy, correct?

5 A. After me and Jim got involved, all the doors opened.
6 I started meeting all the big wigs up on the top floor who
7 you never see.

8 Q. All right. And you got the loan?

9 A. Yes, through a long drawn-out process, including the
10 scenario we talked about earlier.

11 Q. During your direct examination did you refer to Bank
12 One or people at Bank One as being idiots?

13 A. Marty Durkin in particular was fired, was one of
14 them.

15 Q. But you referred to people at Bank One as being
16 idiots with respect to your loan, right?

17 A. I said some of the loan officers were young idiots,
18 which they were kids. They had no common sense. They
19 never worked for a living. They are bean counters. They
20 didn't want property. They didn't want assets.

21 Q. And you said on direct examination that you felt that
22 the loan documentation had been improperly or incorrectly
23 structured. Is that right?

24 A. I was hammered into a deal, the best deal I could
25 get, but it was not the best deal that could have been

Tyson - Cross

1 made. I was backed into a corner, and I had to make a
2 deal.

3 Q. And you said on direct examination, did you not, that
4 you felt that the bank really was interested only in
5 getting interest from you, and they really weren't
6 concerned about the health of your business. Did you
7 basically say that?

8 A. Well, aren't banks multi-billion dollar corporations?
9 They don't get paid like that, helping little people.

10 Q. And did you say on direct examination that Bank One
11 was interested only in receiving interest payments from you
12 and was not really concerned about your business?

13 A. That was my observation.

14 Q. But at the time that the loan was made, you didn't
15 criticize Bank One, you praised them. Is that right?

16 A. I had to. I had to get more money out of them.

17 Q. Well, showing you Exhibit 3-4, the letter that you
18 identified as being the letter you wrote on April 7th,
19 1994, do you have it on the counter before you? Could you
20 take a look at that, sir?

21 A. I have it.

22 Q. And in the last paragraph on page 1, would you read
23 what you said about the people at Bank One when you got the
24 loan? Bottom of page 1, last paragraph. Sir, page 1 of
25 the letter. Flip it over, please.

Tyson - Cross

1 A. I got it. Hold on.

2 Q. Right. The last paragraph on the front page. Okay.
3 If you would please read.

4 A. "Through fate, we were introduced to a staff at Bank
5 One, in particularly a gentleman by the name of Mr. Al
6 Matasy. He set up a meeting with myself and fellow banking
7 officer Mr. Perry Chickonowski, and immediately began to
8 see results. After significant effort on behalf of
9 numerous associates of Bank One, these gentlemen
10 singlehandedly rescued this start-up company from the trash
11 heap, and with no other government assistance, they solely
12 took on the responsibility of committing and financing
13 Capital Ready Mix, Incorporated, with the proper packages
14 and loan agreements that will make this start up company a
15 success."

16 Q. And you also in the first paragraph of that letter
17 referred to what happened in your loan situation as a
18 magnificent banking success story. Is that right?

19 A. Right.

20 Q. So at the time you credited Bank One loan officers
21 with single-handedly rescuing your startup company. Is
22 that right?

23 A. Yeah. It is called spend control.

24 Q. And Mr. Perry Chickonowski that you mention in the
25 last paragraph of that letter, he was one of those young

Tyson - Cross

1 loan officers, right?

2 A. Yeah. Marty Durkin isn't mentioned.

3 Q. But Mr. Chickonowski was one of those young loan
4 officers who worked on your loan?

5 A. He was a young aide.

6 Q. And flipping this letter over, this praise that you
7 bestowed upon Bank One you distributed to Mayor Patrick
8 Ungaro?

9 A. The bank did something. It was not perfect, but they
10 did something, so I gave them praise.

11 Q. You praised them to the mayor?

12 A. I praised everybody.

13 Q. Did you send a letter to the mayor?

14 A. Yes.

15 Q. And you sent a copy to Youngstown City Council, as
16 well?

17 A. And I sent a letter to city council.

18 Q. And you sent a letter to Mr. Joe Burkey, correct?

19 A. That would be correct.

20 Q. And the initials M.V.E.D.C., what does that mean?

21 A. That's, I believe, Mahoning Valley Economic
22 Development Corporation.

23 Q. And Mr. William Carter, you sent a copy of the letter
24 to him, too, correct?

25 A. Correct.

Tyson - Cross

1 Q. And what do the initials Y.A.D.C. mean?

2 A. Youngstown Area Development Corporation.

3 Q. Now, ultimately and unfortunately you did default on
4 the loan, correct?

5 A. Defaulted on two loans.

6 Q. All right. Now, prior to the time that this loan
7 situation occurred, you testified on direct examination
8 that there was a meeting that you had at a local restaurant
9 with the Congressman, yourself, Mr. Sattarelle, and one or
10 two of the Bucci brothers. Is that right?

11 A. The two Bucci brothers, Bob and Tony.

12 Q. So both of the Bucci brothers were there?

13 A. There are three of them. Dan is dead now.

14 Q. Was he there that day?

15 A. No.

16 Q. Tony and Bob Bucci were there, and Mr. Sattarelle and
17 the Congressman, right?

18 A. Yes.

19 Q. And it was at that time that you believe that the
20 Buccis were trying to run you right out of the company. Is
21 that right?

22 A. That would have been a fact.

23 Q. And indeed, you thought that the Buccis were trying
24 to destroy you as a businessman. Is that right?

25 A. They were doing their best effort.

Tyson - Cross

1 Q. And that meeting in that restaurant got extremely
2 contentious. Is that right?

3 A. Yes, it did.

4 Q. In fact, there came a point where there was at least
5 some risk there could have been a physical altercation
6 there, correct?

7 A. No. Bob is all talk.

8 Q. All right. Didn't somebody say they might come
9 across the table at somebody else?

10 A. He thought he could bluff somebody.

11 Q. That's what he said, right?

12 A. That's what he said. He didn't do nothing.

13 Q. And during that meeting, the Congressman took a
14 neutral role during that restaurant meeting, didn't he?

15 A. He was trying to get the problem resolved.

16 Q. And he really didn't take anybody's side. He was
17 basically neutral. Isn't that right?

18 A. He tried to present a neutral setting, but I would
19 say he supported us.

20 Q. In the Grand Jury you said he didn't take anybody's
21 side?

22 A. I said he was neutral in the thing. You are asking
23 me about sides, I would say he supported me.

24 Q. Well, in fact, in the Grand Jury, didn't you say that
25 he acted more like a referee rather than a partisan in this

Tyson - Cross

1 meeting?

2 A. He was trying to get the thing worked out. Yes, he
3 came in as a mediator to see what the problem was, because
4 I notified him that with all these bank deals in place, all
5 this city government, that the Buccis were trying to screw
6 the deal up.

7 Q. And so in that meeting in the restaurant, the
8 Congressman was not overtly taking sides with either party,
9 was he?

10 A. He was doing his job as a mediator to get the thing
11 resolved. He couldn't show outward favoritism to them
12 guys, he couldn't show it toward me.

13 Q. All right. Now, it is true that Big G and Capital
14 Ready Mix employees went out to the farm and performed work
15 out at the Congressman's farm in Greenford, correct?

16 A. Yes, sir.

17 Q. And there were basically two installments in that
18 work, correct? It happened in two different installments?

19 A. Not from my company it didn't.

20 Q. In other words, there was a first installment. There
21 was a first installment where some waterlines, sprinklers,
22 and pipe were put in. Is that right?

23 A. Absolutely, yes.

24 Q. And the pump, that was the responsibility of John
25 Krump of Capital Ready Mix to make sure that got taken care

Tyson - Cross

1 of?

2 A. That pump had nothing to do with the first job.

3 Q. What pump had to do with the first job?

4 A. The pump came after we had completed the job, and
5 they called up my office, couldn't get ahold of me, and
6 they called the concrete plant because there wasn't any
7 water for horses. The wellhead had went out.

8 Q. And Mr. Krump was responsible for installing a pump
9 to fix that problem?

10 A. He wasn't responsible for it. I asked because John
11 lived out that way. I didn't want to send one of my
12 expensive guys to go out and see what the problem was, so I
13 asked him to stop to see if he could check it out on his
14 way home.

15 Q. And your testimony is that you were paid by the
16 Congressman for that pump, correct?

17 A. After the pump was put in, after John did the work,
18 Jim asked me how much I owed him for the thing, and I told
19 him just give me \$400. Then he paid me, but it wasn't
20 right away. It was totally by surprise.

21 Q. And you never reported the \$400 on the books and
22 records of Capital Ready Mix?

23 A. I got the \$400 in an envelope and just put it --

24 Q. My question is, you did not report the \$400 on the
25 books and records of Capital Ready Mix?

Tyson - Cross

1 A. I don't know. It was probably put in petty cash.

2 When I had petty cash, we didn't keep receipts on it.

3 Q. Isn't it a fact in the Grand Jury you testified you

4 didn't report that \$400 on the books and records of

5 Capital?

6 A. I wouldn't have reported it to Capital because that

7 envelope came to my house.

8 Q. Mr. Krump was a Capital Ready Mix worker?

9 A. He was a supervisor, mixed concrete for us.

10 Q. At Capital Ready Mix, right?

11 A. Right. But the pump -- John, he also had his own

12 truck, and he was a union man, and he lived out there.

13 Q. And the pump was purchased with Capital Ready Mix

14 money, correct?

15 A. No. I think I bought it from Big G. It is in the

16 book here.

17 Q. Big G is one of your companies, too. Is that right?

18 A. Yeah. I had two companies.

19 Q. So one of your companies bought that pump, right?

20 A. Right.

21 Q. And you never reported the payment on the books and

22 records of the companies that did the work. Is that right?

23 A. It was a chicken shit amount. I can't keep track of

24 little stuff like that.

25 Q. Well, you would agree that a company must keep

Tyson - Cross

1 accurate books and records of all matters of income so that
2 you have, number one, accurate books and records, and
3 secondly, that you had accuracy for tax purposes.

4 You would agree with that, wouldn't you?

5 A. We kept records as best we could. Sometimes you got
6 a couple dollars in petty cash and incidental income. And
7 we always get an estimated thing at the end of the year,
8 and I always put down more in case we were covered.

9 Q. And you failed to report that income on company
10 books?

11 A. I didn't fail nothing. That was covered in the
12 company books and our statements. When our guys do the
13 books I always estimate an extra amount as far as petty
14 cash over and above our receipts.

15 Q. Sir, did you testify in the Grand Jury, page 57,
16 lines 19 through 25, "Well, let's talk about applying the
17 money properly. "

18 "Question: Well, let's talk about applying the money
19 properly. Did you record on the books and records of
20 Capital Ready Mix the receipt of the \$400 cash from Jim
21 Traficant for the well repair?

22 "Answer: If anything, it was put in petty cash.

23 "Question: That's not my question. Did you record
24 it?

25 "Answer: I don't think I recorded it. "

Tyson - Cross

1 Were those the questions you were asked and were
2 those the answers you gave in the Grand Jury?

3 A. Yeah, whatever.

4 Q. Now, sir, with respect to the waterlines and the
5 sprinklers in that first series of work you did --

6 A. I didn't put any sprinklers in, squeeze a trigger and
7 get out water.

8 Q. And there were water pipes, lines, that kind of
9 thing. Is that what happened?

10 A. What actually happened, I think we put the lines in,
11 and one of my guys failed to purge the system, and I think
12 we blew out his pump. That's why I had Krump go out
13 instead of the guys that installed it, so I could find out
14 what happened with the thing.

15 Q. And your testimony is you were paid \$500 and a horse
16 for that work, right?

17 A. What work is that?

18 Q. The waterlines and the pipe, and that stuff?

19 A. Right. I took older material from jobs. I had
20 cleaned up the jobs. The men's paychecks were made out
21 already. If they were paid for eight hours, it took a
22 couple hours, they had their pay that day. I think we got
23 done around noontime. They did four hours and got eight
24 hours. It was kind of a bonus, reward.

25 Q. Isn't it true, you didn't report any payment for the

Tyson - Cross

1 work on the books and records for the work on the pipes and
2 lines?

3 A. I bought tickets, and I had taken my personal checks
4 and was buying political tickets. So I didn't get any
5 exorbitant money that I thought I had to be worried about
6 recording.

7 Q. So you didn't report it on the books and records of
8 your company?

9 A. No. That little bit of petty cash wasn't recorded.

10 Q. And you didn't report the value of the horse on the
11 books and records of the company either?

12 A. I didn't want the Buccis to claim that they had 24
13 percent, so I guess I didn't report the horse.

14 Q. May I finish my question?

15 A. I finished answering it.

16 THE COURT: I think he has answered it.

17 BY MR. SMITH:

18 Q. Sir, by the way, what political tickets did you buy
19 with this money that you said the Congressman gave you?

20 A. I had bought tickets for the mayor of Youngstown, the
21 mayor of Warren. I bought Commissioner's tickets, whatever
22 political smut come along. If you didn't buy the ticket,
23 then they get mad at you.

24 Q. Now, with respect to the horse, you didn't want the
25 horse, correct?

Tyson - Cross

1 A. Nobody likes to take a trade-in instead of cash.

2 Q. In fact, earlier in life you had been bitten by a
3 horse, and after that you really didn't care for horses.
4 Is that right?

5 A. I was bitten by a pony when I was younger, but ponies
6 and horses are different.

7 Q. But the point is, you never actually removed the
8 horse from Congressman Traficant's farm; it stayed there?

9 A. Yeah, because I had free room and board on that
10 sucker for a year until I determined what I wanted to do
11 with it.

12 Q. You never took actual physical possession of that
13 horse?

14 A. Didn't have to.

15 Q. Your answer is no?

16 A. The horse was mine.

17 Q. Sir, did you take actual physical possession of the
18 horse at any time?

19 A. The man shook my hand and said the horse was mine, so
20 the horse was mine. Now, did I go out there and take him
21 out of the barn? No.

22 Q. And, in fact, at the time of your Grand Jury
23 appearance you did not know if the horse was alive or dead.
24 Is that right?

25 A. When did you call me? Was it last year?

Tyson - Cross

1 Q. March 29th of 2000, when you testified before the
2 Grand Jury, at that time you didn't know if that horse was
3 alive or dead. Wasn't that your statement?

4 A. Well, I was probably just out of being glad I was
5 alive myself. I didn't care if it was alive or dead.

6 Q. And you didn't know if it was alive or dead?

7 A. I hadn't been out to the farm.

8 Q. Now, there was another batch of work done later that
9 consisted of concrete work, distribution of some slag, and
10 some work on a barn. Is that right?

11 A. That was the work I did in trade for the horse.

12 Q. I thought you already said that the horse was part of
13 the payment on the waterlines.

14 A. You thought wrong.

15 Q. Isn't that what you said a few minutes ago?

16 A. No, I didn't.

17 Q. At any rate, that's the same horse you didn't take
18 possession of and didn't know if it was dead or alive?

19 A. The same if I did work for you and you have a 1962
20 car in your garage which is a collector item which you have
21 to keep in the garage: While it is in your garage and I
22 don't have to store it, I don't have to keep it.

23 Q. Okay. Let's talk about the concrete. About six
24 trucks of concrete were sent up to the farm, correct?

25 A. No. That was a different deal. That's when the

Tyson - Cross

1 Buccis wanted some work done, and they didn't have credit
2 for the concrete.

3 Q. Whether the Buccis were responsible for the concrete
4 going out there or you were, about six trucks worth of
5 concrete went out to that farm, correct?

6 A. That's a separate deal. That's not the same job.
7 You are mixing it up.

8 Q. Whether it is different or the same --

9 A. It is not the same.

10 Q. And you didn't ask the Congressman to pay for those
11 six loads of concrete, did you?

12 A. The Buccis requested those six trucks. The Buccis
13 had the cost of that concrete deducted from their rent. It
14 was a separate job altogether. You are not even on the
15 same page.

16 Q. My simple question is, you didn't make any requests
17 of the Congressman to pay for that concrete, even if it was
18 a Bucci job, correct?

19 A. The concrete was paid for by the Buccis, so there was
20 no need for me to request to the Congressman.

21 Q. Okay. With respect to the slag, that slag was
22 delivered to the farm by a Big G worker whose name was
23 Carol Kent, correct?

24 A. Correct.

25 Q. And she was a truck driver, correct?

Tyson - Cross

1 A. Correct.

2 Q. And you did not ask the Congressman to pay for that
3 slag either, did you?

4 A. That slag was part of the agreement. When I walked
5 around with Jim he asked me to do additional work. After
6 we installed the waterlines and the pipe he did that, and
7 that's why I had to come back and make a second trip, come
8 back, pour pads, and spread slag. I did that for what the
9 horse was worth.

10 Q. So you were not paid any money for that slag; you
11 would agree with that, correct?

12 A. I was paid by -- with the horse.

13 Q. No money, correct?

14 A. For that slag, no money.

15 Q. And finally, the barn wall repair. Three or four men
16 from your companies were sent out there to do that work,
17 correct?

18 A. Whatever it took to do the job. I -- you know.

19 Q. Do you dispute it was three or four men?

20 A. Whatever it took to do the job. If I had to send
21 two, three guys, or a machine, whatever it took. I agreed
22 to do a job, and I do the job correctly. Whatever it takes
23 for me to do that job, I do.

24 Q. And did you ask -- you did not ask Congressman
25 Traficant to pay for that work that was done on the barn

Tyson - Cross

1 wall either with money, did you?

2 A. That work was part of the agreement for Sarge, the
3 horse.

4 Q. Charge of the horse?

5 A. Right.

6 Q. So no money for the barn wall?

7 THE COURT: Did you say "Sarge" or "charge?"

8 THE WITNESS: Sarge.

9 THE COURT: But the horse's name is Sarge?

10 THE WITNESS: Actually, technically, he was
11 The Son of Sarge, but I called him Sarge.

12 THE COURT: I got the word "charge" out of
13 that. I was wrong.

14 Q. So the horse's name was Sergeant, correct?

15 A. That's what I called the horse, but that's really --

16 Q. And on the barn wall work or repairs you didn't
17 receive any money?

18 A. Yeah. I got paid with the horse before I did the
19 work. That's what I agreed to do in part of agreeing to
20 take the horse. When he gave me the horse in the first
21 place, it was more than the value of the work that we did.

22 MR. SMITH: May I have a moment, Your Honor?

23 THE COURT: Did you finish? Did you finish
24 what you were saying?

25 THE WITNESS: Whatever he wanted to do, Your

Tyson - Cross

1 Honor.

2 THE COURT: No, no. I was listening to you,
3 the jury was listening to you, and so we need to hear --

4 THE WITNESS: Whatever he goes into.

5 THE COURT: Just come out and finish up with
6 what you were saying.

7 THE WITNESS: I am done, Your Honor, I guess.

8 THE COURT: Okay.

9 (Laughter.)

10 Q. Isn't it true after this supposed deal with the horse
11 you only saw the horse about two more times after that?

12 A. My dad saw it a couple times.

13 Q. And that's it, right?

14 A. I wasn't concerned with it. I mean, I had cleared
15 out things in my Capital Ready Mix plant, and the Buccis
16 were making efforts to screw me out of that plant. I
17 didn't want to be putting a \$10,000 corral and stable, and
18 bring the horse out there, and them son-of-a-bitches end up
19 with --

20 Q. And your dad only saw the horse once, right?

21 A. My dad was only out there one time. My dad is dead,
22 by the way.

23 MR. SMITH: Okay. No further questions.

24 MR. TRAFICANT: Your Honor, I just have one
25 question. I know it is almost 4:30, but I would like to do

Tyson - Redirect

1 this. Leave the machine on. I have a document 1007. It
2 came in discovery from you guys. You didn't put a number
3 on it. It is a statement, borrowing base, 11-18-94. I
4 want the gentleman to look at it.

5 MR. MORFORD: It is part of 3-9. It has a
6 number. Look at the very last page, Congressman. There is
7 an exhibit.

8 MR. TRAFICANT: Fine. But I want this
9 especially -- after we are done I want to know if this is
10 part of the record.

11 REDIRECT EXAMINATION OF GREGORY C. TYSON

12 BY MR. TRAFICANT:

13 Q. I would like for you to take a look at it. It is
14 part of a package of 3-9.

15 THE COURT: Okay.

16 Q. Are you familiar with that? I want to put it on the
17 screen real fast.

18 A. This is how they based my line of credit.

19 MR. TRAFICANT: I would like to put this on
20 the screen, Your Honor.

21 THE COURT: Fine.

22 MR. TRAFICANT: I would like to have a
23 special Defense Exhibit Number put on there as GT 1007.

24 THE COURT: We have been on Joint Exhibits.
25 We have been calling them Joint. Is this a request for a

Tyson - Redirect

1 Joint Exhibit? It has an exhibit number from the
2 Government.

3 MR. MORFORD: That exhibit was not offered,
4 and if he wants to mark that page with that, that's fine.

5 MR. TRAFICANT: They haven't offered
6 anything.

7 BY MR. TRAFICANT:

8 Q. Did they subpoena you, Greg?

9 A. For this testimony?

10 Q. Did they subpoena you to the Grand Jury?

11 A. Yes.

12 Q. Did you have an attorney to advise you with regard to
13 that immunity?

14 A. Yes.

15 Q. Did you know that immunity carried over to this
16 meeting?

17 A. No.

18 Q. This trial?

19 A. No.

20 MR. TRAFICANT: I would like to identify this
21 document, and I will slow it down for you.

22 Q. Would you identify for me what it is? It is hard to
23 read.

24 A. That was their formula. At the top, you will see it
25 says \$415,000. That wasn't my contract base for the year.

Tyson - Redirect

- 1 That was the profit I was going to make on jobs for the
2 year. That was based on 30 percent profit on a million
3 six, million seven, and that's what burned my socks when
4 that -- excuse me -- son bitcher Bucci told me I didn't
5 have loan value because I had those contracts in my holding
6 when he sat there and said that.
- 7 Q. What does it say opposite that? Look at the \$415,
8 and look what it says opposite.
- 9 A. It says acceptance of accounts receivable.
- 10 Q. Now, look down below, eligible inventory, how much?
- 11 A. \$82,000.
- 12 Q. Look at subtotal above eligible inventory?
- 13 A. \$150,000.
- 14 Q. You are looking at the bottom. I am talking about
15 the top, \$415,000.
- 16 A. \$415,970.44.
- 17 Q. Third line?
- 18 A. \$207,985.22.
- 19 Q. Next line?
- 20 A. Eligible inventory, \$50,000.
- 21 Q. Next line?
- 22 A. 50 percent.
- 23 Q. Tell what it was for.
- 24 A. This was our revolving line of credit.
- 25 Q. What was \$25,000 -- what does it represent?

Tyson - Redirect

1 A. Fifty percent of our inventory on hand.

2 Q. And that's \$232,985 stand for?

3 A. That was the total eligible amount of loan value that
4 they had a formula, or they broke it up.

5 Q. You had that valuable loan value?

6 A. I had more than that. I had \$415,000. They could
7 have boosted that formula to more than 50 percent. They
8 were giving me half of what my receivables were. I had
9 \$415,000.

10 Q. So that 50 percent underneath \$415, they only gave
11 you credit for only half of what your receivables were
12 worth?

13 A. Right.

14 Q. In computing your assets to make you a loan?

15 A. Well, this was for our line of credit.

16 Q. Line of credit?

17 A. Line of credit.

18 Q. Did you feel you were treated fairly in that process?

19 A. No. We were screwed on that.

20 MR. TRAFICANT: No further questions.

21 MR. SMITH: No questions.

22 THE COURT: Thank you, sir. Sir. You are
23 excused, and you may step down.

24 THE WITNESS: Thank you, Your Honor. Nice to
25 meet you.

1 THE COURT: Be careful of our steps as you go
2 down. They are not great.

3 We are going to recess until Monday morning. We will
4 need to begin at 9:00 o'clock on Monday morning. You are
5 going to have a nice three-day period of time, and it is
6 important that, although you hear these words over and over
7 again, that I remind you again that if anybody tries to
8 contact you or put you under any pressure in this case, you
9 have a number to call. You call it.

10 There may well be things in the media of any kind,
11 and you need to avoid those completely. Don't let anyone
12 talk to you about the case. Don't talk to anyone about the
13 case. And watch when you are online or walking through a
14 room where there is a TV on or listening to the radio in
15 your car, just -- make sure when you are reading the
16 newspaper -- just make sure you keep all of that out so
17 you can do your job here.

18 And I thank you for your wonderful attention, and we
19 appreciate it very much. This is -- we are going into our
20 ninth week next week. And you very fine folks have these
21 responsibilities, so enjoy your time off and your families
22 and the rest of your lives.

23 Thank you.

24 (Proceedings out of the presence of the jury.)

25 THE COURT: We could be subject to working a

1 full day down here. We do have several motions and
2 responses that have been filed. I think we would benefit
3 by just following the jury's steps and reconvening on
4 Monday morning, but I'd like you to reconvene at 8:30.

5 I anticipate that there will be some more orders
6 coming out on the various motions that are in this case.
7 And so you should pay attention to that.

8 Congressman, you can access all this online. We also
9 fax copies of everything to both offices. So if anything
10 is going to come out, I'm not going to say I will give you
11 advance warning. We will just work as we can work and get
12 through as many as we can. But, Congressman, we need to
13 know from you and the other side needs to know tonight who
14 you anticipate bringing in on Monday morning, and we also
15 would like an update on the welder situation.

16 MR. TRAFICANT: I will know more about that
17 this weekend. I got the number from the prosecutor, and I
18 will notify them as soon as I find out. A lot of it
19 depends on the material I get from Home Savings, and I may
20 be able to conclude my case this week.

21 THE COURT: I will let the jury go, and is
22 there anything further?

23 MR. SMITH: Yes.

24 THE COURT: Well, wait. I am not sure they
25 are ready, but it doesn't take them long to get their

1 coats. Everyone else, you can stand or be seated.

2 (Pause.)

3 MR. TRAFICANT: Your Honor, I would like to
4 offer some documents into evidence.

5 THE COURT: If you will give us the numbers
6 and show them to the other side.

7 MR. TRAFICANT: Okay. The first one is --
8 was a Government exhibit that had a 3.2 sticker on it. And
9 I want it to be labeled GT 1007-B.

10 THE COURT: 3-2 is in evidence already as a
11 joint exhibit.

12 MR. TRAFICANT: Okay. Fine.

13 THE COURT: Okay.

14 MR. TRAFICANT: A letter to Mr. Don Cheigas,
15 Bank One from Mr. Tyson, November 18th, 1994. I would like
16 to have it as a Defense Exhibit GT 100.

17 THE COURT: What's its Government number,
18 Congressman?

19 MR. TRAFICANT: It has no Government number
20 on it.

21 THE COURT: I think it may be part of a
22 series.

23 MR. SMITH: GT 1007?

24 MR. TRAFICANT: I got it in discovery,
25 gentlemen. I am using your material.

1 MR. MORFORD: But this was not shown to a
2 witness.

3 MR. TRAFICANT: I did show it to him.

4 MR. MORFORD: But he didn't testify about it.

5 MR. TRAFICANT: I don't have it in my notes.

6 THE COURT: Okay. So describe it for us, and
7 give --

8 MR. TRAFICANT: It was a letter to Mr. Donald
9 Cheigas relative to the refinancing of Big G Construction,
10 which I asked him about.

11 THE COURT: Who wrote the letter?

12 MR. TRAFICANT: It was written by Greg Tyson,
13 GT 100, and they are saying it is already in. Is that what
14 you are saying?

15 MR. MORFORD: No. I don't think that one is.

16 THE COURT: GT 100 apparently --

17 MR. SMITH: We don't care.

18 THE COURT: Apparently, it was not
19 identified, but they will agree to have it come in. So
20 without objection, GT 100 will come into evidence.

21 MR. MORFORD: Can you give it to us with the
22 number on it so we know what it is?

23 MR. TRAFICANT: Certainly. GT 100.

24 GT 102 --

25 THE COURT: Before you go on, the Court also

1 needs a copy of it. Since you doesn't have it right now --

2 MR. TRAFICANT: I do have a copy of it for
3 you.

4 THE COURT: Okay. Thank you. Thanks.

5 MR. TRAFICANT: Next one will be GT 102, a
6 letter to Perry Chickonowski from Gregory Tyson.

7 MR. SMITH: Again, Your Honor, we don't
8 recall it being shown to the witness, but we will not
9 object.

10 THE COURT: What they are referring to,
11 Congressman, when you had him on the stand, because he
12 wrote the letter, you could have shown it to him and
13 identify it and wouldn't have problems getting it into
14 evidence.

15 MR. TRAFICANT: I knew they would stipulate
16 to it.

17 THE COURT: I wouldn't count on that.

18 MR. TRAFICANT: If they don't, they don't.

19 THE COURT: If they don't, it won't be
20 admitted.

21 MR. TRAFICANT: Well, they have already.

22 Next one is the Government's Exhibit 3-6 --

23 THE COURT: Are you going to --

24 MR. MORFORD: I am just reading it, Your
25 Honor.

1 MR. TRAFICANT: I thought Mr. Smith already
2 stipulated to it.

3 MR. TRAFICANT: That was GT 100.

4 MR. MORFORD: No. I believe it was GT 102 as
5 well.

6 THE COURT: Congressman, let him relax and
7 read the letter.

8 MR. MORFORD: That's fine. It is a business
9 record, so we will stipulate.

10 THE COURT: Fine.

11 MR. TRAFICANT: Next one -- it had a
12 Government Exhibit 3.6. I showed it and put it on the
13 screen, and it is known as GT 1007-D.

14 THE COURT: While they are looking at that, I
15 will admit the prior exhibit, which is GT 102, will be
16 admitted without objection.

17 MR. TRAFICANT: This was given to me in
18 discovery, and I showed it to the witness on the screen,
19 and he identified it. It was all with the packet by the
20 Government.

21 MR. MORFORD: This is the same as Exhibit
22 3-5. So there is a copy of this exhibit under 3-5 under
23 evidence. I think they are the same.

24 MR. TRAFICANT: How did you bring it into
25 evidence?

1 MR. MORFORD: Under Mr. Chickonowski.

2 MR. TRAFICANT: I would like to put this into
3 evidence as 1007-D under the Tyson case.

4 THE COURT: We don't want to give the jury
5 two sets.

6 MR. MORFORD: The other one has the
7 Congressman's handwriting, but it is the same document
8 otherwise.

9 THE COURT: Okay. Very well.

10 MR. MORFORD: And no objection.

11 THE COURT: And this will be admitted without
12 objection.

13 Just a minute. GT 1007-D.

14 MR. TRAFICANT: The Government did have
15 Government's Exhibit 3-1 admitted. It was a photograph.
16 If they had it admitted as a joint exhibit --

17 THE COURT: They did. It is a joint exhibit.
18 You asked it to be a joint exhibit.

19 MR. TRAFICANT: That's the photograph?

20 THE COURT: Yes.

21 MR. TRAFICANT: Fine. The next one is known
22 as GT 107-A. It is -- it was shown to the witness. It
23 was Government Exhibit 3.3, and it dealt with his term loan
24 and put on the screen.

25 THE COURT: It is admitted as a joint

1 exhibit. It has been already.

2 MR. TRAFICANT: Fine. Now I have several
3 photographs that were shown -- I have several other
4 exhibits that were shown to the -- and shown on the
5 screen, and did we admit 101, GT 101, defense exhibit that
6 was shown to him?

7 It was Big G Construction, a letter from -- it was
8 to Big G Construction from Bank One.

9 THE COURT: Show it to the Government,
10 please.

11 MR. MORFORD: That's the same as 3-6.

12 MR. TRAFICANT: Find me 3-6.

13 MR. MORFORD: It does appear to be different.

14 MR. TRAFICANT: GT 101 I move be admitted as
15 evidence. It is different than theirs.

16 MR. MORFORD: Do you have another copy of it?

17 MR. TRAFICANT: Yes, I do. I'm looking for
18 it. I do not at this time, and I would ask you to look at
19 this, and if it needs to be introduced later, I will do so.

20 MR. MORFORD: We have no objection to this,
21 except that we need a copy that we can mark for our own
22 records.

23 THE COURT: And we need a copy, Congressman.
24 What is it? Is there a way of describing what it is?

25 MR. MORFORD: A May 12th, 1994, Bank One

1 letter to Big G, with a bunch of loan information on it
2 that I believe is included in what was marked but not
3 introduced or admitted as Government's Exhibit 3-9. So if
4 you take the pages out of 3-9, the four pages, that would
5 constitute this document.

6 MR. KALL: I believe it starts on or about
7 the third page, Your Honor. There are a few different bank
8 records from May 12, 1994, so for clarity, the first page
9 lists facility one in an amount of \$108,000 for the first
10 facility, \$197,000 for the second facility.

11 THE COURT: So, Congressman, do you have a
12 copy of that for the Court, please?

13 MR. TRAFICANT: I don't have a copy of that
14 for the Court. You will -- I will have to make a copy of
15 it.

16 THE COURT: They don't have an objection to
17 its admission as I understand, but on Monday morning, you
18 can bring a copy.

19 MR. TRAFICANT: And what was the number on
20 that, Your Honor? Is that 101?

21 THE COURT: GT 101.

22 MR. TRAFICANT: So we need a copy for the
23 Court. I do have photographs I would like to have put in
24 the record.

25 THE COURT: Have you seen it -- shown it to

1 the other side?

2 MR. MORFORD: I haven't --

3 THE COURT: Congressman, maybe we can put
4 them out on the table, and the lawyers for the Government
5 can look at them.

6 MR. TRAFICANT: Well, they only would agree
7 to the additional -- the pictures of the addition, and I
8 will put them on the screen if you'd like, and maybe we can
9 expedite it.

10 THE COURT: Was -- if there are some agreed
11 to, tell me that, and we can go ahead and admit them as
12 your exhibits.

13 MR. TRAFICANT: This is HA-70. Let me go
14 through what I have.

15 THE COURT: Okay. You folks organize it.

16 MR. TRAFICANT: This is HA-70.

17 THE COURT: Do you agree to that?

18 MR. MORFORD: No objection to HA-70, Your
19 Honor.

20 THE COURT: It will be admitted.

21 MR. TRAFICANT: HA-90.

22 MR. MORFORD: Just one second. No objection
23 to HA-90.

24 THE COURT: It is admitted.

25 MR. TRAFICANT: HA-80.

1 MR. MORFORD: No objection to HA-80.

2 THE COURT: It is admitted.

3 MR. TRAFICANT: HA-50.

4 MR. MORFORD: No objection.

5 THE COURT: Admitted without objection.

6 MR. TRAFICANT: HA-60.

7 MR. MORFORD: I object to HA-60 because I
8 don't believe it is part of the work that Manevich did.
9 There is no testimony to show it was part of the work he
10 did.

11 MR. TRAFICANT: It was brought out and showed
12 on the screen they didn't finish the gutter and cut around
13 the gutter and put the pole around the gutter with the
14 opening up above for the animals to enter. It was clearly
15 shown to the witness and put on the screen and the same
16 siding that is seen on HA-1.

17 If you would like to tell me -- look at it, and tell
18 me the difference in the siding.

19 MR. MORFORD: The problem is you can't tell
20 who did the work, and there is no testimony in this case --

21 MR. TRAFICANT: The testimony was stated by
22 Mr. Marchese.

23 THE COURT: He took the pictures, but wasn't
24 there at the time that it happened. He testified he was
25 not there at the time as work was done. That's --

1 MR. TRAFICANT: But he testified it was the
2 same siding and the same job that continued under the
3 portico, and this is part of the portico in the
4 construction and showed the -- he explicitly described
5 this.

6 THE COURT: I will go back in the
7 transcripts. Give it to me, and I will go back to his
8 testimony and look at it over the weekend.

9 MR. TRAFICANT: I will leave this with you.

10 MR. MORFORD: And the basis of my objection,
11 having looked at the bigger picture, there are different
12 parts of that house that come together, and it is not clear
13 that they did some of the work that is displayed in that
14 picture.

15 MR. TRAFICANT: Then would you agree to HA-1
16 was their work? He testified to that.

17 MR. MORFORD: No, because I have no idea.
18 These were not shown to Mr. Manevich who did the work. You
19 can't tell from these pictures --

20 THE COURT: You can call Manevich back.

21 MR. TRAFICANT: I am not going to pay to
22 depose that guy who said he got \$15. And the other guy
23 said he got \$10.

24 THE COURT: But, Congressman, if you can't
25 identify something through the person that took the

1 picture, you can identify it through the person that is
2 there.

3 MR. TRAFICANT: But I would have to -- he
4 was the heart problem. This shows the drop in the floor
5 with the board.

6 MR. MORFORD: No objection.

7 MR. TRAFICANT: That's HA-38.

8 THE COURT: No objection to that. It will be
9 admitted.

10 MR. TRAFICANT: This is HA-400, the building
11 that Dominic and Angelo would not walk into.

12 MR. SMITH: That's another version of 4-3.

13 MR. MORFORD: Correct.

14 THE COURT: That will be admitted without
15 objection.

16 MR. TRAFICANT: HA-39, which shows the
17 construction type plywood used on the deck floor.

18 MR. MORFORD: No objection.

19 MR. SMITH: Those were identified as being
20 inside.

21 THE COURT: That will be admitted without
22 objection.

23 MR. TRAFICANT: HA-37, which shows the water
24 damage clearly within the deck on the floor.

25 MR. MORFORD: No objection.

1 THE COURT: That will be admitted without
2 objection.

3 MR. TRAFICANT: HA-35, which shows the
4 construction gapping of the portico.

5 MR. MORFORD: No objection.

6 THE COURT: That will be admitted without
7 objection.

8 MR. TRAFICANT: HA-200. Which shows the
9 rotted post.

10 MR. MORFORD: Objection, because he did not
11 put those posts in.

12 THE COURT: Sustained.

13 MR. TRAFICANT: G-300, which shows a
14 different version of the barn that Dominic and Angelo would
15 not enter.

16 MR. MORFORD: No objection.

17 THE COURT: That can be admitted.

18 MR. TRAFICANT: That's G-300.

19 The rest were photographs that the Government had
20 objected to, and I will not offer them.

21 THE COURT: G-300 -- would you pull it back,
22 please?

23 MR. TRAFICANT: G-300 they did not object to.

24 THE COURT: But it has never been identified
25 to anybody.

1 MR. TRAFICANT: It was identified by
2 Mr. Marchese that he and Angelo would not enter --

3 MR. MORFORD: Your Honor, we will stipulate
4 to it.

5 THE COURT: Okay. It can come in.

6 MR. TRAFICANT: And will we have an updated
7 list -- a master list perhaps Monday?

8 THE COURT: Sure. We can do that.

9 MR. TRAFICANT: Thank you very much.

10 THE COURT: You are welcome.

11 MR. MORFORD: Your Honor, may the Government
12 offer four exhibits?

13 THE COURT: Fine.

14 MR. SMITH: First of all. Government's
15 Exhibit 3-4, the letter from Mr. Tyson, which he
16 authenticated as having been sent to the Congressman with
17 various copies to people in Youngstown.

18 MR. TRAFICANT: I move it be made a joint
19 exhibit.

20 THE COURT: It will be made a joint exhibit
21 and admitted without objection.

22 MR. SMITH: Your Honor, next is Exhibit --
23 this is better than any now -- 5-2(1), which was
24 authenticated by Anthony Traficanti and I believe moved by
25 the Congressman as a joint exhibit.

1 MR. TRAFICANT: Let me see it.

2 MR. SMITH: Yes, sir.

3 MR. TRAFICANT: If I moved it as a joint
4 exhibit, then it shall be so. And you said I -- fine. It
5 is a joint exhibit.

6 THE COURT: It will be admitted. Go ahead.

7 MR. SMITH: Next 5-2(2), which was also, we
8 believe, offered as a joint exhibit authenticated by
9 Anthony Traficanti concerning the letter to Judge Spahr.

10 MR. TRAFICANT: That's fine.

11 THE COURT: It was marked as a joint exhibit
12 and now marked --

13 MR. TRAFICANT: Yes.

14 MR. SMITH: And 5-3(1), which Anthony
15 Traficanti authenticated, which the Congressman asked to be
16 a joint exhibit, and that's a letter from Congressman
17 Traficant to Judge Spahr.

18 MR. TRAFICANT: I will take his word for
19 that, and it is fine with me.

20 THE COURT: Okay. That can be admitted.

21 MR. SMITH: And, Your Honor, that concludes
22 our offer today.

23 MR. TRAFICANT: That concludes my offers as
24 of today.

25 THE COURT: Okay. So 5-3(1) is also

1 admitted. All right? We will see you gentlemen at 8:30 on
2 Monday morning. Enjoy the three-day recess from the trial.

3 (Proceedings adjourned.)

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1	VOIR DIRE DIRECT OF LYNN KOVACHIK.....	5274
2	DIRECT EXAMINATION OF ALBERT M. GIBSON.....	5281
3	DIRECT EXAMINATION OF MELINDA DAVIES.....	5289
4	CROSS-EXAMINATION OF MELINDA DAVIES.....	5314
5	REDIRECT EXAMINATION OF MELINDA DAVIES.....	5317
6	DIRECT EXAMINATION OF MARK COLUCCI.....	5319
7	DIRECT EXAMINATION OF GREGORY C. TYSON.....	5342
8	CROSS-EXAMINATION OF GREGORY C. TYSON.....	5395
9	REDIRECT EXAMINATION OF GREGORY C. TYSON.....	5427

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C E R T I F I C A T E

14

I certify that the foregoing is a correct

15

transcript from the record of proceedings in the

16

above-entitled matter.

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